Part 11
General Rule-Making Procedures

This edition replaces the existing loose-leaf Part 11 and its changes.

This FAA publication of the basic Part 11, effective November 10, 1962, incorporates Amendments 11-1 through 11-35 with preambles.

Published
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Bold brackets **[ ]** throughout the regulation indicate the most recent changed or added material for that particular subpart. The amendment number and effective date of new material appear in bold brackets at the end of each affected section.

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PART 11

NPRM ORDER FORM

U.S. Department of Transportation
Office of the Secretary
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Please place the following on the Part 11 Notice of Proposed Rulemaking mailing list:

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Subpart B—Rules Other Than Airspace Assignment and Use

Subpart C—Processing of Rules Other Than Airworthiness Directives and Airspace Assignment and Use

Subpart D—Rules and Procedures for Airspace Assignment and Use

Subpart E—Processing of Airworthiness Directives

Subpart F—Agency Information Collection Requirements Under the Paperwork Reduction Act

in this subchapter, will be labeled "[New]". The label will of course be dropped at the completion of the project as all of the regulations will be new.

Subchapter B [New] was published as a notice of proposed rule making in the Federal Register on June 14, 1962 (27 F.R. 5686) and as Draft Release 62–27.

A part of the comments received recommended specific substantive changes to the regulations. Although some of these recommendations might, upon further study, appear to be meritorious, they cannot be adopted as a part of the recodification program. The purpose of the program is simply to streamline and clarify present regulatory language and to delete obsolete or redundant provisions. To attempt substantive changes in the recodification of these regulations (other than minor, relaxatory ones that are completely noncontroversial would delay the project and would be contrary to the ground rules specified for it in the Federal Register on November 15, 1961 (28 F.R. 10698) and Draft Release 62–27. However, all comments of this nature will be preserved and considered in any later substantive revision of the affected Parts.

Draft Release 62–27 contained a notice of the revision of the procedural rules of the Federal Aviation Agency. The preamble to the release stated that the certification procedural rules in Part 406 of the Regulations of the Administrator were being considered for transfer to the Parts to which they specifically applied, insofar as they did not duplicate provisions already in those Parts. Comment was particularly invited as to whether this change would be a convenience to the user. No adverse comment was received. Therefore Part 13 [New], as proposed in the draft release (based on present Part 406), has been deleted from the final rule. Those provisions of Part 406 relating to medical certification procedures (§§ 406.12 and 406.31) have been transferred to and included in Part 67 [New]. Those provisions of Part 406 relating to Airman Certificates (§ 406.13), and Air Agency Certificates (§ 406.16) are deleted as unnecessary and as covered in pertinent part by Subchapter D "Airmen" [New]: The remaining provisions of Part 406, relating to Aircraft Certificates, Air Carrier Certificates and Air Navigation Certificates will be considered for inclusion in future subchapters of the recodification, as applicable.

As a result of the deletion of the proposed Part 13 (based on present Part 406) the proposed Part 15 (based on present Part 408) has been renumbered in the final rule as Part 13 "Enforcement Procedures" [New].

Section 11.25 has been revised and expanded to meet certain problems the Agency has encountered in processing petitions for rule making and exemptions. Many petitions do not contain enough information to allow a determination to be made of the matter. Others fail to specify clearly the regulations involved or the nature and extent of the requested action. As a result, the Agency must get additional information from its field personnel, the petitioner, or other sources, thereby unnecessarily delaying the handling of the petition. A number of petitions for exemption have been filed so close to the requested effective date of the exemption as to require priority handling, with attendant disruption of normal Agency work schedules.

Accordingly, the revised § 11.25 specifies in greater detail the information that must be included in petitions. In addition, except for good cause shown in the petition, it requires petitions for exemption to be filed at least 60 days before the requested effective date of the exemption to allow time for their orderly processing. As this revision is concerned only with agency procedure, compliance with the notice and public procedure provisions of the Administrative Procedure Act is unnecessary and it may be incorporated into the recodified Subchapter B [New].

Other minor changes of a technical clarifying nature or relaxatory nature have been made. They are not substantive and do not impose any burden on regulated persons.

Of the comments received on Draft Release 62–27, several suggested changes in style, format, or technical wording. These comments have been carefully considered and, where consistent with the style, format, and terminology of the recodification project, were adopted.

This amendment is made under the authority of sections 303(d), 313(a), 301 through 306, 601 through 608, and 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1344(d), 1354(a), 1401 through 1405, 1421 through 1428, and 1481).

Amendment 11–1

General Rule-Making Procedures [New]

Adopted: March 19, 1963 **Effective: April 23, 1963**

The purpose of these amendments is to make appropriate provision for petitions for extension of the time for written comments stated in a notice of proposed rulemaking (§ 11.29(b)(4)). While in the past such requests have been acted upon under §§ 11.45 and 11.65(e), neither the applicable procedural requirements nor the standards for passing on the requests have been stated in the regulation.

New paragraph (c) of § 11.29 supplies these provisions. It is the Agency policy to allow ample time for comments on rulemaking proposals initially, and no change in this policy is contemplated. The new rule therefore states a policy of granting extensions of time only where requested by persons showing a substantive interest in the subject matter and good cause for the extension, and where consistent with the public interest. However, when an extension is granted it will apply to all persons desiring to submit comments and will be published in the Federal Register. Requests for extension of time must be filed before the time has expired and the mere filing of the request does not automatically extend the time. Incidental conforming amendments not involving additional substantive changes are made in §§ 11.45 and 11.65(d) and (e).

Since these amendments are procedural in nature, notice and public procedure thereon are not required and the amendments may be made effective less than 80 days after publication.

In consideration of the foregoing, effective April 23, 1963, Part 11 [New] of the Federal Aviation Regulations is amended as follows.

These amendments are made under the authority of sections 303(d), 307, 313(a) and 1001 of the Federal Aviation Act of 1958 (48 U.S.C. 1344(d), 1348, 1354(a), 1481).

Amendment adds new paragraph (c) to § 11.28; § 11.45 is revised and paragraph (d) of § 11.65 is restated to conform to the procedural requirements of § 11.29.

Amendment 11–2

Exemptions Under Emergency Conditions

Adopted: May 22, 1964 **Effective: May 29, 1964**

(Published in 29 F.R. 7091, May 29, 1964)

The purpose of this amendment is to make provision for the processing of exemptions from air safety regulations at times of emergency when communications with Federal Aviation Agency headquarters may be interrupted.

For this purpose, a new § 11.15 is being added to this Part. It authorizes the filing of exemption petitions with certain FAA field offices when, as a result of enemy attack, communications with FAA

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*Includes Part 11—General Rulemaking Procedures [New] and Part 13—Enforcement Procedures [New].

This amendment is made under the authority of sections 303(d), 307, 313(a), 601 to 608, 610(b) and 1001 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1344, 1348, 1354, 1421–1428, 1430, 1481).

Amendment 11–3

Assignment of Navigable Airspace

Adopted: July 13, 1964 **Effective: July 13, 1964**

(Published in 29 F.R. 9661, July 17, 1964)

This amendment to Part 11 [New] of the Federal Aviation Regulations alters the Federal Aviation Agency's General Rulemaking Procedures to authorize FAA Regional Directors to issue regulations assigning controlled airspace for terminal areas.

This action was published as a notice of proposed rulemaking in the Federal Register on February 14, 1964 (28 F.R. 2467). A supplemental notice and a notice extending the period for comments were published in the Federal Register on February 25, 1964, and March 17, 1964, respectively (28 F.R. 2677, 3441). Under the proposed rule, Regional Directors would have been authorized to issue regulations on restricted areas as well as on controlled airspace for terminal areas.

Five parties submitted comments on the proposal and the overall reaction was one of opposition. Some of the comments stated broad objections to the decentralizatlon of the airspace rulemaking function while others concentrated on specific situations where regional handling of airspace rules would be undesirable. A prevailing theme dealt with the need for the exercise of firm control over the national airspace program, and the importance of decentralization to the achievement of this goal. Particularly in the case of the designation of special use airspace, it was pointed out that the impact of many airspace rulemaking actions on the public and on the defense establishment was such as to call for top-level coordination and control. Strong objections were made to any delegation of rulemaking authority which would enable Regional Directors to issue notices and rules for special use or en route purposes, or to process cases requiring coordination with the Departments of Defense and State under Executive Order 10854.

It was suggested in two comments that if the Agency did carry the proposal to a final rule, procedures be incorporated therein for the appeal or referral of cases to the Washington Headquarters whenever a controversy arose over the position taken by a Regional Director. The Department of Defense was particularly concerned that delegation of airspace authority to the field in the FAA, while DOD maintained centralized authority, would disrupt the timely exchange of information between DOD and FAA. Other comments reflected upon the history of the airspace program and contended that adoption of the proposed action would run contrary to the aims of the Federal Aviation Act of 1958 and prevent the administration of a uniform airspace program. Some comments suggested further that if any delegation of authority was to be adopted, the FAA should clearly outline the responsibilities of the Regional Directors and establish firm guidelines to prevent the promulgation of inequitable and inconsistent actions.

The FAA has studied these comments and found several of them to be meritorious. It has reviewed the proposal as it related to the designation of special use airspace and has concluded that this function should be performed by the Washington Headquarters. Restricted areas are by nature most critical because of the prohibition to flight they entail and because of their usual tie-in with national defense interests. Retention of this function in Washington will perpetuate the exercise of central control in this area and minimize the impact on procedures now followed by DOD and FAA in exchanging information on airspace matters.

routes or jet advisory areas. Thus, the rule adopted herein prohibit Regional Directors from handling actions on Part 75 [New]. Regional Directors will, however, be authorized to include action on a Federal airway in a notice or rule relating to controlled airspace for terminal areas if the airway action is ancillary to the terminal area case and if he obtains approval from FAA Headquarters in Washington to ensure that there is consistency with national airway planning.

All airspace dockets affecting airspace outside the three mile limit will be issued by the Washington Headquarters. All of these cases are coordinated with the State and Defense Departments under Executive Order 10854 and their handling in Washington will permit continuation of existing procedures in effecting this coordination.

The notice of proposed rulemaking contained a provision for the redelegation of authority by Regional Directors. Under the rule adopted herein, no redelegation of authority by a Regional Director would be permissible. With this provision, with the distribution to the field of new and revised internal directives on the processing of airspace cases, and with the limitation placed on Regional Directors as to the categories of airspace allocations they may handle, the FAA believes that proper control will be maintained over the airspace program. At the same time, Regional handling of cases on controlled airspace should accelerate the processing of a large volume of dockets. It will also permit decisions on many dockets having more of a local than national impact to be made by Agency officials most familiar with the case.

No provision appears in the rulemaking action taken herein for Headquarters intervention in terminal airspace dockets creating a controversy in the field. It is the intent of this amendment to delegate complete authority to Regional Directors in matters related to airspace allocations concerning terminal areas. Section 11.73 [New], however, does provide for petitions for reconsideration to be submitted to the Administrator within 30 days after publication of the rule. This provision should provide adequate relief for parties who feel that rulemaking action taken by a Regional Director is contrary to the public interest.

The notice of proposed rulemaking anticipated a problem in the handling of airspace overlapping two regions, and provided for the issuance of a rule in these cases by the region responsible for the larger portion of the airspace in question. Upon further consideration, the Agency has decided to refrain from establishing quantity of airspace as the determining factor as to how these actions would be handled. Responsibility over the greater portion of such airspace may be the controlling factor in some cases, but it will be left to the regionl offices concerned to consider all the problems involved in the case and to jointly decide which region will issue the notice or rule.

Since these amendments are procedural in nature, they may be made effective on less than 30 days, notice.

In consideration of the foregoing, Part II [New] of Chapter I of Title 14 of the Code of Federal Regulations is amended, effective immediately, as hereinafter set forth.

This amendment is made under the authority of Section 307 of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Amendment 11-3 (Regulatory Docket No. 4003) to Part 11 of the Federal Aviation Regulations was published in the Federal Register on July 17, 1964 (29 F.R. 9661), delegating to Regional Directors limited rulemaking authority in the assignment of navigable airspace.

On July 7, 1964, a Notice of Rulemaking was published in the Federal Register (29 F.R. 8471), amending Part 71 of the Federal Aviation Regulations effective September 17, 1964, and establishing a two-layer airspace structure within the 48 contiguous states and the District of Columbia. As a consequence of this amendment certain Subparts of Part 71 were revoked or redesignated.

Accordingly, as those references to Part 71 in Amendment 11–3 to Part 11 are to Subparts as previously designated, this amendment is necessary to bring those references into agreement with Subparts of Part 71 as now amended.

Additionally, as a necessary adjunct to the exercise of rulemaking authority by Regional Directors, a public docket relating to each action is maintained and is available for examination by interested persons in the office of the Regional Counsel. In order to clarify the requirement for maintenance of such dockets, Section 11.11 of Subpart A is expanded to include a provision to that effect.

Since these amendments are procedural in character, and in the interest of correcting present references at the earliest possible date, notice and public procedure hereon are considered unnecessary and impracticable, and good cause exists for making this amendment effective immediately.

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations is amended effective immediately, as hereinafter set forth.

This amendment is made under the authority of Section 307 of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Amendment 11–5

Updating and Clarification

Adopted: August 15, 1966 **Effective: August 20, 1966**

(Published in 31 F.R. 11091, August 20, 1966)

This amendment adds FAA Area Offices to the list of offices that may receive and handle emergency exemptions under § 11.15. In addition, it clarifies Part 11 by expressly stating the rulemaking powers of the Associate Administrators and the applicability of § 11.25 to petitions for exemption from any FAA rules. Minor editorial changes are made to update certain references in Part 11.

Since § 11.15 was added to Part 11 in 1964, the Regions have been subdivided into Areas headed by Area Managers (Amendment 2 to the FAA Organization Statement, 31 F.R. 838) whose purpose is to manage the operating programs of the Agency. Area Offices are therefore added to the list of offices in § 11.15 there exemption petitions may be filed and handled. In addition, the reference in § 11.15 to "Flight Standards International Field Office" is updated to read "International Field Office, or FAA Representative in the Europe, Africa, and Middle East Region or in the Pacific Region".

Section 11.25 contains procedural rules that govern the filing of petitions for an "exemption from any rule issued under Title III or VI of the Federal Aviation Act of 1958". This provision is being amended to make it clear that it applies to exemptions from any Agency rules issued under the Federal Aviation Act of 1958 or other statute administered by the FAA. This amendment conforms the rule to actual Agency practice.

to do so without delaying the project or incurring expense, but this policy is not currently stated in the regulation. Section 11.47(a) is therefore amended to state it.

Since these amendments are procedural in nature, do not constitute substantive rule making, and do not impose a burden on any person, notice and public procedure thereon are not required and the amendment may be made effective less than 30 days after publication.

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended, effective August 20, 1966.

These amendments are issued under the authority of sections 302(f), 303(d), 913(a) and 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1343(d), 1344(d), 1354(a) and 1481).

Amendment 11–6

Issue of Airworthiness Directives by Regional Directors

Adopted: October 21, 1966 **Effective: January 1, 1967**

(Published in 31 F.R. 13697, October 15, 1966)

The purpose of this amendment is to add a new Subpart E to Part 11 of the Federal Aviation Regulations to authorize the FAA Regional Directors within the 48 contiguous States to issue Airworthiness Directives. Airworthiness Directives are rules issued under Part 39 of the Federal Aviation Regulations when an unsafe condition exists in a product and that condition is likely to exist in other products of the same type design.

This action was published as a notice of Proposed Rulemaking in the Federal Register on February 18, 1966 (31 F.R. 2903).

Eighteen comments were received on the proposal and the overall reaction was one of opposition. These comments were based primarily on two points, that decentralization would lead to a lack of uniformity in the policies and procedures governing the issue of AD's and that decentralization would result in the issue of more AD's. The overall policies and procedures governing the issue of AD's will continue to be the responsibility of FAA's Washington headquarters and AD's will be issued by the regions only in accordance with these policies and procedures. Regional actions will be monitored carefully, especially in the initial stages, to assure that a lack of uniformity does not occur. In connection with its review of the comments on this proposal, the Agency has again reviewed industry comments on the proposed decentralization of airspace rulemaking in 1964 (Amendment 11-3, effective July 13, 1964). Many of the same organizatlons expressed substantially the same objections at that time. Experience since that time has shown, however, that the airspace rule writing has been handled on a more expeditious and satisfactory basis by the regions and no unjustifiable increase in the number of airspace actions has occurred. While the airspace and airworthiness regulatory functions can be distinguished in certain respects, the Agency believes it reasonable to anticipate that similar results will accrue from the decentralization of the issue of Airworthiness Directives.

No provision appears in the rule for headquarters' participation, on a case-by-case basis, in Airworthiness Directive rulemaking. It is the intent of the amendment to delegate complete authority to Regional Directors in these matters. Section 11.93, however, provides that petitions for reconsideration may be submitted to the Administrator within 30 days after publication of the rule. This provision should provide adequate relief for parties who feel that rulemaking action taken by a Regional Director is contrary to the public interest.

handling of cases should accelerate their processing and permit decisions to be made by Agency officials most familiar with the case.

The Alaskan, Pacific, and European Regions of the Agency are not staffed to handle the entire processing of Airworthiness Directives. For this reason, Airworthlness Directives arising in those regions will continue for the present to be developed in those regions, will be processed in the Agency headquarters, and will continue to be issued by the Director, Flight Standards Service.

A duplicate docket will be maintained in Agency headquarters for each regional Airworthlness Directive action.

In consideration of the foregoing, Part 11 of Chapter I of Title 14 of the Code of Federal Regulations is amended, effective January 1, 1967.

This amendment is made under the authority of sections 303(d), 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1344, 1354, and 1421).

Unnumbered Amendment

Technical Amendments to Reflect Transition to Department of Transportation

Adopted: April 4, 1967 **Effective: April 1, 1967**

(Published in 32 F.R. 5769, April 11, 1967)

The purpose of these amendments is to make changes in the Federal Aviation Regulations that are necessary because of the taking effect of the Department of Transportation Act (49 U.S.C. 1651 et seq.) on April 1, 1967. On April 1, 1967, the Federal Aviation Agency became the Federal Aviation Administration in the Department of Transportation, and the aviation safety functions of the Civil Aeronautics Board under Titles VI and VII of the Federal Aviation Act of 1958 were transferred to the National Transportation Safety Board.

This rulemaking action therefore chances the term "Federal Aviation Agency", wherever it occurs in the Federal Aviation Regulations, to "Federal Aviation Administration", and the word "Agency" when used alone to denote the Federal Aviation Agency to "FAA". For reasons of economy the editions of these regulations that are currently for sale will not be reprinted merely to make these changes. Whenever they are reprinted for other reasons, the printing changes will be made. However, the pages of Part 1 reflecting the changes in definition of the term "Administrator" and the abbreviation "FAA" will be reprinted as soon as possible.

The changes made in the Parts containing references to the Civil Aeronautics Board that are affected by the transfer of functions to the National Transportation Safety Board are self-explanatory. Pages containing these changes will also be reprinted as soon as possible.

Notice and public procedure thereon are not required since these amendments merely reflect changes of law, and they may therefore be made effective immediately.

In consideration of the foregoing, the Federal Aviation Regulations (14 CFR Chapter I) are amended, effective April 1, 1967.

(Published in 32 F.R. 5770, April 11, 1967)

These amendments update certain cross references in the Federal Aviation Regulatlons and make other miscellaneous corrections.

At the time of the recodification, it was necessary to include in the Federal Aviation Regulations cross references to the Civil Air Regulations or Special Civil Air Regulations where the referenced provision had not yet been recodifled. These amendments update those cross references not previously updated. No substantive change is involved in these amendments. In some instances, the cross references as updated herein have been anticipated in compilations and reprints of the respective Parts of the regulations.

In addition, the term "Federal Air Surgeon" is substituted for the term "Civil Air Surgeon" in § 11–55 to correctly state the title of that official.

Since this amendment does not involve any substantive change and does not impose a burden on any person, notice and public procedure thereon are unnecessary, and the amendment may be made effective immediately.

In consideration of the foregoing, Chapter I of Title 14 is amended, effective April 10, 1967.

These amendments are made under the authority of section 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)).

Amendment 11–8

Authority of Directors of Aeronautical Center and

National Aviation Facilities Experimental Center

Adopted: April 18, 1967 **Effective: April 25, 1967**

(Published in 32 F.R. 6390, April 25, 1967)

The purpose of this amendment is to clarify Subpart C of FAR Part 11 to the effect that the terms "Office or Service" include the Aeronautical Center and the National Aviation Facilities Experimental Center, either of which has the responsibility for developing the substance of certain parts of the Federal Aviation Regulations. Since this amendment is procedural and does not impose a burden on any person, notice and public procedure thereon are not required and the amendment may be made effective immediately.

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective April 25, 1967.

This action is taken under the authority of sections 303(d), 313(a) and 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1344(d), 1354(a), 1481).

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not be considered; and (2) remove the provision for placing in the official rulemaking docket additional medical information or further medical examination obtained from a petitioner for medical exemption at the request of the advisory panel of medical experts.

Until now, a person denied a medical exemption could file and obtain consideration of another petition at any time. This has been done promptly in a number of instances, followed by repeated denials because of the same disqualifying medical condition.

Even under the best management or therapy the human organism may well need time to show significant progress toward recovery after experiencing a disqualifying medical condition under Part 67, and this time varies from one individual to another and from one condition to another. In the area of medical exemptions it is appropriate to provide that, as applied on an individual basis, a new petition may not be considered until after the lapse of a given period of time appropriate to the disqualifying condition. Before the expiration of such a time, medical considerations make it impossible to sensibly reevaluate the effects upon safety of a given medical deficiency (such as an established medical history or clinical diagnosis of myocardial infarction, chronic alcoholism or drug addiction) that has remained either active or in a state of remission. To attempt reevaluation before that time has elapsed would elicit no meaningful information that could reasonably be expected to alter a previously made decision. In other words, given the same basic fact situation, reconsidering a medical case within a fixed period of time may be a purely repetitious review that is time consuming, imposes an unreasonable workload and financial burden upon the FAA, and subjects the petitioner himself to false hopes and eventual disappointment.

Since exemption from standard medical requirements is a discretionary function under the Federal Aviation Act of 1958, a proper balancing of the interest of the applicant against cost-benefit considerations in Government operations requires dismissal of exemption petitions during that minimum period.

These amendments therefore provide that the advisory panel of medical specialists may, when recommending the denial of a petition for exemption, also advise the Administrator in an appropriate case that, as a matter of individual medical consideration, an exemption may not be entertained before a certain minimum period of time has elapsed. On this advice the Administrator may determine that a second or any subsequent petition for exemption from the requirements of Part 67 may not be considered before a predetermined period of time elapses.

These amendments also delete from § 11.55 the provision that the Federal Air Surgeon sends to be placed in the official rulemaking docket a copy of additional medical information or further medical examination obtained from the petitioner at the panel's request.

The provision is deleted because medical information relating to an individual is, for the most part, properly withheld from public disclosure.

Since these amendments are procedural in nature, notice and public procedure thereon are not required.

These amendments are issued under the authority of sections 313(a) and 601(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421).

In consideration of the foregoing, § 11.55 of the Federal Aviation Regulations is amended as follows, effective February 25, 1968.

Under § 11.91 the Regional Director has the authority to grant or deny petitions for exemption from Airworthiness Directives, subject to the approval of the General Counsel with respect to form and legality. However, no provision is made for processing of exemptions from Airworthiness Directives during time of emergency when communication with the Regional Director and the General Counsel may be interrupted.

For this purpose § 11.91 is heing added to the regulations in § 11.15 from which exemptions may be processed by FAA field personnel during emergency conditions without following the usual procedural requirements.

Since this amendment is procedural in nature, does not constitute substantive rulemaking, and does not impose a burden on any person, notice and public procedure thereon are not required and the amendment may be made effective less than 30 days after publication.

In consideration of the foregoing, Part 11 (§ 11.15) of the Federal Aviation Regulations is amended effective immediately.

This amendment is made under the authority of sections 303(d), 307, 313(a), 601 to 608, 610(b) and 1001 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1344, 1348, 1354, 1421–1428, 1430, 1481), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Amendment 11–11

Grant or Denial of Medical Exemptions

Adopted: February 19, 1971 **Effective: March 29, 1971**

(Published in 36 F.R. 3462, February 25, 1971)

The purpose of these amendments to Part 11 of the Federal Aviation Regulations is to state the general course and method by which petitions for exemption from provisions of Part 67 (Medical Standards and Certification) are granted or denied.

This function will now be performed by the Federal Air Surgeon, with the assistance of consultant medical specialists where appropriate, and the services of an advisory panel of medical specialists as previously provided for in § 11.55, will no longer be required.

Under the procedural rules of § 11.55, each petition for an exemption from any provision of Part 67 has been referred to a panel of medical specialists for its recommendation. The panel's function has been to examine the petitioner's medical condition by thorough review of all pertinent medical documents and to advise the Administrator whether the specific nature of the applicant's medical defect that made him unable to meet the standards of Part 67 was such that be could be exempted from those standards without endangering public safety during the period the medical exemption would be in effect. Based on the public interest and in the light of the specific situation involved, the Administrator has granted or denied the petition after receiving the panel's recommendation.

The Federal Air Surgeon has not had explicit authority to recommend to the Administrator the disposition of petitions for exemption or to actually dispose of them himself. However, under § 67.19 he may, in certain cases, authorize special medical flight or practical tests, or special medical evaluations, to determine whether the applicant can perform his duties under his airman certificate in a manner that will not endanger public safety. Upon the required showing, the Federal Air Surgeon may issue specially to the applicant a medical certificate of the appropriate class, with any operational limitation or limit on the duration thereof that the Federal Air Surgeon determines is needed for safety. Thus,

The delegation of authority to the Federal Air Surgeon is consistent with delegations made to the heads of the other Services or Offices. Similarly, if the Federal Air Surgeon finds that a grant or denial involves a policy determination that should be made by the Administrator, he will refer the petition and any recommendations, including those of the General Counsel, to the Administrator for final action.

These amendments therefore revoke § 11.55 (Exemptions from Part 67) and make appropriate changes in §§ 11.15 and 11.53 to reflect the authority of the Federal Air Surgeon to grant or deny petitions for medical exemptions.

Since these amendments are procedural in nature, notice and public procedure thereon are not required.

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations is amended, effective March 29, 1971.

(Sections 313(a) and 601(c) of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421(c). Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c)).

Amendment 11–12

Grant or Denial of Exemptions from Airport Certification and Operation Rules

Adopted: September 12, 1972 **Effective: September 20, 1972**

(Published in 37 F.R. 99354, September 10, 1972)

The purpose of these amendments to Part 11 of the Federal Aviation Regulations is to (1) state the general course and method by which action is taken on petitions for exemption from provisions of Part 139—Certification and Operations: Land Airports Serving CAB-Certificated Scheduled Air Carriers Operating Large Aircraft (Other Than Helicopters), including petitions filed under § 139.19 for exemptions from safety equipment requirements, on which Regional Directors already are authorized to act; and (2) provide for public dockets in the offices of Regional Counsel relating to rulemaking actions taken by Regional Directors on all petitions for exemption filed under Part 139.

Section 139.19 specifically provides for petitions for exemption from the safety equipment requirements of § 139.49 (Airport firefighting and rescue equipment and service), § 139.53 (Traffic and wind direction indicators), and § 139.65 (Public protection), and the grounds that compliance would be contrary to the public interest. This provision was responsive to the 1971 amendment to section 612(b) of the Federal Aviation Act or 1958 (Public Law 92–174, approved November 27, 1971) that specifically provides that the terms, conditions, and limitations on each airport operating certificate that are "reasonably necessary to assure safety in air transportation" shall include those relating to adequate safety equipment "unless the Administrator determines that it would be contrary to the public interest." While petitions under that section are to be submitted and processed under Part 11, they are to be filed with FAA airport field offices. It has been provided that thereupon they are to be either granted or denied by the appropriate Regional Director, in view of the fact that the certification function itself is to be performed in the field. As stated in the preamble to Part 139, relief by exemption may be applied for under Part 11 at any time in situations other than those covered by § 139.19. In the absence of these amendments, petitions other than § 139.19 petitions would be processed by the Director, Airports Service, at the FAA Headquarters in Washington, D.C.

Upon further consideration, it has been determined that it is desirable to have all exemption petitions under Part 139 processed at one location and thus avoid an illogical diversity of authority as to the

(Sections 303(d), 313(a), and 1001 of the Federal Aviation Act of 1958; 48 U.S.C. 1344(d), 1354(a), 1481. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 6855(c). Section 1.47(a) of the Regulations of the Office of the Secretary of Transportation: 49 CFR 147(a)).

Amendment 11–13

Processing of Petitions for Medical Exemptions

Adopted: March 8, 1976 **Effective: March 18, 1976**

(Published in 41 F.R. 11271, March 18, 1976)

The purpose of this amendment to Part 11 of the Federal Aviation Regulations is to amend § 11.43 to reflect the authority delegated to the Federal Air Suregon, Ofice of Aviation Medicine, for the processing of petitions for exemption from Part 67.

By Amendment 11–11 to Part 11, effective March 29, 1971, the Federal Air Surgeon was delegated authority to grant and deny petitions for exemption from the provisions of Part 67. Appropriate changes were made to §§ 11.15 and 11.53 to reflect that delegation. However, a related change to § 11.43 was inadvertently omitted. Accordingly, § 11.43 is amended consistent with Amendment 11–11 to make the procedures specifled in that section applicable to petitions for exemption from Part 67.

Since this amendment is procedural in nature, notice and public procedure thereon are unnecessary and good cause exists for making this amendment effective on less than 30 days notice.

This amendment is made under the authority of §§ 313(a) and 601(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421(c)), and § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, § 11.43 of the Federal Aviation Regulations is amended effective March 18, 1976.

Amendment 11–14

Procedural Requirements for Petitions for Exemptions

Adopted: June 30, 1977 **Effective: September 6, 1977**

(Published in 42 F.R. 34864, July 7, 1977)

SUMMARY: This amendment changes the lead-time for filing certain petitions for exemption from the present 60 days prior to the desired effective date to 120 days prior to that date. The intended effect is to expedite all regulatory actions, including exemptions, by providing for the orderly inclusion of exemption requests into the FAA's regulatory workload. This change is needed because of the increase in exemption petitions in recent years.

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Beitel, Air Carrier and General Operating Branch, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 426–3080.

Discussion of Comments

As stated in Notice 75–24, the purpose of the proposal is to allow orderly integration of exemption requests into the FAA regulatory workload and thereby reduce the disruptive effect of short notice exemption requests. Several commentators asserted that instead of amending Part 11 to increase the lead-time for filing exemption requests, the FAA should reduce the need for exemptions by improving the regulations and reviewing them more often. The FAA is committed to improving and maintaining the regulations to the state-of-the-art. The Airworthiness Review and Operations Review programs were established to provide a complete review and updating of the regulations covered by those programs. These review programs are undertakings of substantial magnitude which involve participation by numerous persons, including industry groups, foreign governments, and users of the aviation system. While the FAA anticipates that these review programs will eliminate the need for many of the current requests for exemptions, it is not believed that all exemptions will or should be eliminated. With respect to comments concerning frequency of review of the regulations, as noted above the FAA is committed to maintaining the regulations to the state-of-the-art. Future regulatory reviews should be conducted with sufficient regularity to achieve that goal.

A number of commentators asserted that the 180 day period would be too long. Several commentators expressed support for an increase in the 60 day period to either 90 or 120 days. The FAA has carefully considered the various comments relating to the length of the proposed 180 day period and has concluded that a modification is appropriate. With due regard for the needs of petitioners for exemptions on the one hand, and on the other hand, the need for the additional lead-time to allow for the orderly integration of exemption requests into the FAA's regulatory workload and to better enable the FAA to determine whether or not general rulemaking is appropriate, the FAA believes that a 120 day period should be adopted. The proposal has been revised accordingly. However, the FAA will periodically assess the impact of the 120 day leadtime on the processing of its regulations. In this connection, it was noted in the preamble to Notice 75–24 that the increase in exemption petitions experienced by the FAA absorbed more and more of the resources expended on the safety regulatory program.

If the FAA regulatory review programs, including the current Airworthiness and Operations Reviews, significantly reduce the number of petitions for exemption, it may be possible to reduce the lead-time to 90 days, or even back to 60 days.

It should be noted that many petitions for exemption do not contain the supporting information specified in § 11.25. Failure to provide required information in a timely manner results in additional communication with the petitioner to secure the information needed by the FAA to consider the petition and can delay final action on the petition. The FAA expects all petitioners to support their petitions for exemption with all information required by § 11.25. The increase in lead-time to 120 days and compliance by petitioners for exemptions with the information requirements of § 11.25 will assist the FAA in scheduling exemptions and other rulemaking actions with the result that all regulatory actions should be accelerated.

Several of the commentators were concerned with the term "priority handling" and with the standard to be used to determine whether priority handling should be granted. In this respect, the FAA stated in Notice 75–24 that the proposal would permit petitions for exemption to be submitted in less than the prescribed period before the desired effective date "where the petitioner demonstrates a need for earlier action by the FAA." This is the standard that has been applied in administering the "good cause" provision of the current regulation and no change in processing was intended. However, in view of the questions raised by some commentators regarding use of the term "priority handling", and to avoid any confusion, the proposal has been revised to retain the current "good cause" provision.

It was suggested by several commentators that the change proposed in Notice 75–24 should not apply to petitions for medical exemptions because unreasonable delay in consideration and disposition of such petitions might result. The FAA wishes to emphasize that the intent of the proposal to increase the lead-time was to expedite all regulatory actions, including exemptions, by providing for the orderly

respect, it should be noted that the FAA has under consideration a notice of proposed rulemaking which would include publication in the Federal Register of notice of the filing and disposition of petitions for exemption.

Various other comments were received in the nature of suggestions for other changes which the particular commentator believed would improve the exemption and rulemaking process. While these suggestions are beyond the scope of the notice and have not been specifically discussed herein, all comments are appreciated and they will be considered in connection with future rulemaking action.

The principal author of this document is Richard C. Beitel, Office of the Chief Counsel.

Accordingly, paragraph (b)(1) of § 11.25 of Part 11 of the Federal Aviation Regulations is amended, effective September 6, 1977.

(Secs. 313(a) and 601(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421(c)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Amendment 11–15

Delegations of Authority

Adopted: October 31, 1978 **Effective: November 9, 1978**

(Published in 43 F.R. 52203, November 9, 1978)

SUMMARY: These amendments delegate certain authority of the Administrator of the FAA to officials within the FAA to issue, amend, or repeal: (1) appendices to parts of the Federal Aviation Regulations; (2) technical standard orders; (3) minimum en route IFR altitudes and associated flight data; and (4) standard instrument approach procedures. They also delegate certain authority of the Administrator to: (1) reconsider refusals of applications for amendments to various operating certificates, operations specifications, and airport operations manuals; and (2) reconsider amendments to operations specifications, and airport operations manuals. In addition, these amendments establish procedures for the reconsideration of denials or grants of exemptions. These amendments also delegate authority to the Regional Directors to grant or deny exemptions from the regulations concerning the certification and operations of land airports serving CAB-certificated air carriers.

Finally, the amendments delegate the Chief Counsel's authority in connection with the processing of certain rules. This action is taken to provide more timely governmental response and action. These delegations will reduce review levels within the agency with corresponding savings in time, money, and resources.

ADDRESS: Send comments on the procedures in duplicate to:

Federal Aviation Administration,

Office of the Chief Counsel,

Attn: Rules Docket (AGC–24), Docket No. 18434

800 Independence Avenue, SW.,

Washington, D.C. 20591

provide more timely governmental response and action. These amendments also establish procedures for the reconsideration of denials or grants of exemptions. The delegations and procedures are accomplished by specific changes to sections of the Federal Aviation Regulations.

II. Description of Amendments

A. Authority of "Chief Counsel"

By the addition of a new paragraph (c) to § 11.41, certain authority of the Chief Counsel in processing exemptions under Subpart C of Part 11 (14 CFR Part 11 is delegated to the Assistant Chief Counsel for Regulations and Enforcement. Further, under this paragraph the Chief Counsel may delegate responsibilities in processing petitions for rulemaking, issuing notices of proposed rulemaking, and adopting final rules. Section 11.61 of Subpart D (rules and procedures for airspace assignment and use) and § 11.81 of Subpart E (processing of Airworthiness Directives) are amended to delegate to the Assistant Chief Counsel for Regulations and Enforcement the authority of the Chief Counsel in processing rules under these subparts. It should be noted that under the amendment to Subpart C, in contrast to existing Subparts D and E, the Regional Counsel does not act as the Chief Counsel except in processing petitions for exemptions from the requirements of Part 139 (14 CFR Part 139). Further, the last sentence of paragraph (a) of § 11.41 is placed in new paragraph (c) of § 11.41 since new paragraph (c) contains the definitions for the subpart. Finally, paragraph (c) of § 11.53 is deleted since its substance is incorporated in the new paragraph (c) of § 11.41 which relates to the scope of the entire subpart.

B. Appendices to Parts, Technical Standard Orders, Minimum En Route IFR Altitudes and Associated Flight Data, and Standard Instrument Approach Procedures

By amending § 11.49 the head of the Office or Service concerned is delegated the authority to issue, amend, or repeal appendices to parts of the Federal Aviation Regulations. These appendices contain technical details relating to specific sections within the part and they do not involve basic policy considerations. Therefore, the general involvement of the Administrator in regulatory actions related to appendices is not warranted.

Section 11.49 is also amended to delegate the authority to issue, amend, and repeal: (1) technical standard orders; (2) minimum en route IFR altitudes and associated flight data; and (3) standard instrument approach procedures. These delegations were authorized by a document published in 25 FR 6489 (July 9, 1960) and paragraph 802 of Order FSP 1100.1, as amended March 9, 1973. This amendment merely serves to publish these existing delegations in the Federal Aviation Regulations.

C. Reconsideration of Denials or Grants of Exemptions

A new section is added to Part 11 establishing procedures for processing petitions for reconsideration of denials and grants of exemptions. Previously, there has been no prescribed procedure, but normally, reconsideration has been by the Administrator. New § 11.55(a) and (b) codifies this procedure in the Federal Aviation Regulations.

In contrast to the above procedure, new § 11.55(c) provides that, in the case of a petition for reconsideration of a denial of an exemption from the requirements of Part 67 of the Federal Aviation Regulations, (14 CFR Part 67) the petition is to be filed with, and the reconsideration is to be by, the Federal Air Surgeon. The difference in the procedure for reconsideration of denials of Part 67 exemptions is due to the large quantity of Part 67 exemptions requested, approximately 100 a month, and the specialized nature of the medical decisionmaking in these cases which requires specialized medical expertise. A decision on a petition for reconsideration still would be made by the Administrator if the Federal Air

E. Various Operating Certificates, Operations Specifications and Airport Operations Manuals

Parts 121, 127, 133, 137, and 139 of Subchapter G of the Federal Aviation Regulations (14 CFR Parts 121, 127, 133, 137, and 139) are revised to indicate that the Administrator delegates to the head of the Office or Service concerned the authority to reconsider refusals of applications by certificate holders for amendments to various operating certificates, operations specifications, and airport operations manuals, and to reconsider amendments initiated by the FAA to operations specifications and airport operations manuals. Certain editorial changes are also contained in these amendments which make the sections affected consistent with the delegated authority.

F. Exemptions from Part 139

Section 139.19 is revised to delegate to the appropriate Regional Director the authority to grant or deny exemptions from the requirements of Part 139 with the exception of those petitions filed on behalf of military airports. The Assistant Administrator for Airports Programs is authorized to grant or deny the petitions for exemptions from the requirements of Part 139 filed on behalf of military airports. These delegations are authorized because of the local nature of most Part 139 exemptions and the necessity for coordinating a national policy for those exemptions filed on behalf of military airports. Finally, the language in § 11.41 has been changed to more accurately reflect the fact that exemptions are requested "from the requirements of" Part 139 and not "filed under" that part.

III. Effective Date and Request for Comments

Since these amendments are procedural in nature and implement existing statutory authority, notice and opportunity for public comment is not required. In addition, since these amendments are procedural and do not impose an additional burden, good cause exists for making them effective less than 30 days after publication. However, the FAA contemplates a review of the procedures established by these amendments after they have been in operation for at least twelve months. Interested persons are invited to submit such comments as they may desire with respect to these amendments. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, DC 20591. All comments received on or before March 9, 1979, will be considered during the review, and will be available both before and after that date in the Rules Docket for examination by interested persons.

IV. Adoption of the Amendments

Accordingly, Parts 11, 121, 127, 133, 137, and 139 of the Fedral Aviation Regulations (14 CFR Parts 11, 121, 127, 133, 137, and 139) are amended, effective November 9, 1978.

(Secs. 313 and 601 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 and 1421) ; Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the proposed "Department of Transportation Regulatory Policies and Procedures" published in the Federal Register June 1, 1978 (43 FR 23925). In addition, these amendments are procedural in nature and the Federal Aviation Administration has determined that the expected impact of these amendments is so minimal that they do not require an evaluation.

before the initiation of rulemaking procedures and in the exemption process, is expected to improve the quality of administrative decision making. Further, the publication of denials of petitions for rulemaking and grants or denials of petitions for exemptions should increase public awareness of agency actions. As a result, this amendment furthers the intent of Executive Order 12044. This amendment is not applicable to rules concerning airspace assignment and use and to petitions for medical exemptions.

FOR FURTHER INFORMATION CONTACT: Mr. Edward P. Faberman, Regulations and Enforcement Division, Office of the Chief Counsel, Federal Aviation Administration, 500 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 426–3073.

SUPPLEMENTARY INFORMATION

Background

This amendment is based on a Notice of Proposed Rulemaking (Notice No. 78–10) published in the Federal Register on July 24, 1978 (43 FR 3936). That Notice invited comment by all interested persons. All persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented.

This amendment is part of the FAA's continuing effort to expedite Its rulemaking and exemption programs and to make them more responsive to the public. This amendment increases early public participation in the agency's rulemaking process and enhances public awareness of agency actions.

Discussion of Comments

The FAA received twenty comments from members of the general public, aviation industry, organizations representing consumer groups, and organizations representing pilots and flight attendants. The majority of the comments received were on the overall rule. These comments will be discussed first with a discussion of comments received on specific sections of the amendment to follow.

Those in support of the proposal and their comments were the following:

Avco Lycomlng Williamsport Division (Avco) states that they were in "full agreement" with the NPRM if it will facilitate FAA action. As to the publication of summaries, they stated that this "will fill a current gap in public Information."

The County of Los Angeles Department of Consumer Affairs states "with regular publication and invitations to comment, the public will be provided with improved opportunity to express its thoughts. . . "

The Association of Flight Attendants (AFA) states that the FAA "is to be congratulated for its efforts to open its rulemaking procedure to the public."

The Air Line Pilots Association states that it concurs with the basic intent of the NPRM which is in keeping with the Administration's policies to increase public participation in the regulatory process.

The Town-Village Aircraft Safety & Noise Abatement Committee (Town-Village Committee) stated "it is gratifying to see that steps are being considered to let the public become aware of change at the beginning and not after it is too late to alter decisions."

Both the Council on Environmental Alternatives, Inc., and the Independent Federation of Flight Attendants both "strongly" supported the proposal. Letters supporting the proposal were also received from New York State Department of Transportation (NYDOT), Aircraft Owners and Pilots Association (AOPA), Flight Engineers' International Association, Independent Union of Flight Attendants (IUFA) and Mr. Jay Lewin.

The Air Transport Association (ATA) states that the proposal is not adequately justified, would provide no significant improvement to the existing rulemaking process, would needlessly complicate the process for obtaining exemptions, and that it would cause additional delays to the current procedures.

The Aerospace Industries Association of America (AIA) states the information made available to the public is unlikely to provide a response from the public that will contribute to reasonable and objective rulemaking and exemptions and will have an adverse effect upon the exemption processing time.

In discussing these proposals, it must be noted that under current Part 11, individuals can submit comments on petitions for rulemaking and exemptions (14 CFR 11.31). Comments received are reviewed in connection with the disposition of the petition. Although the FAA has not received a substantial number of comments on petitions, it has been our experience that analysis of the comments received has not delayed consideration of these petitions.

The effect of this amendment, therefore, would not be to create a new comment procedure but to expand it so that all interested parties are notified of petitions pending before the agency and are given the opportunity to submit comments on petitions for rulemaking or exemption.

Section 1 of Executive Order 12044 (March 23, 1978) states that "regulations shall be developed through a process which ensures that . . . opportunity exists for early participation and comment by other Federal agencies, State and local governments, business, organizations and individual members of the public."

The FAA believes that this amendment is consistent with the President's directive. The number of comments received in support of this proposal is evidence that the public will submit comments under the new procedures and does want to participate in the development of agency regulations and exemptions. In addition, this early public and industry participation will assist the FAA in meeting other objectives contained in Executive Order 12044 including consideration and analysis of meaningful regulatory alternatives.

The FAA believes that the benefits to the public and the agency as a result of this increased participation in the agency's rulemaking process far outweigh the additional material that will be published in the Federal Register or the fact that processing time for certain petitions might be increased. The FAA further believes that this amendment will result in a lessening of the time required to process many petitions as a result of increased public awareness of the type of exemptions granted by the agency and of the information required to be submitted in support of those petitions. The cost and time involved in the submission of petitions by the public should be lessened by making readily available all petitions previously denied or granted. This should further result in fewer petitions submitted which are identical to ones previously denied. In addition, the amount of time spent by agency officials in assisting petitioners in the submission of documentation should also be lessened. As a result of this and since the quality of petitions submitted to the agency should be improved, the FAA believes that this amendment will accelerate the decisionmaking process involved in the review of petitions.

The FAA is concerned by the amount of time expended on processing petitions. Petitions must be submitted in accordance with the requirements of § 11.25(b) (1) which requires that petitions "be submitted at least 120 days before the proposed effective date of the exemption." The FAA will closely monitor these procedures to ensure that delays do not develop as a result of these new procedures. If necessary, adjustments will be made to eliminate any problems encountered.

It must be emphasized that submittal of all information required by these procedures by petitioners will assist the FAA in the handling of petitions in a timely manner. Failure to submit all required information, particularly summaries as required by § 11.25(c) and (d), will increase FAA processing time and delay publication.

Attn.: Public Information Center, APA–440

800 Independence Avenue, SW.,

Washington, DC 20591

The FAA is reviewing the possibility of including distribution of information submitted to the Federal Register, pursuant to this amendment in a similar manner.

AFA suggests that a summary of the rulemaking actions maintained in the Offices of the Regional Counsel for each region should be initiated in the Office of the Chief Counsel. The Office of Chief Counsel does maintain dockets for regional actions, however, these actions will not be included in summaries maintained under this amendment.

As a result of the number of actions handled by the regions, summarizing them might create an undue administrative burden on the agency. The FAA will reexamine this decision based upon experience with the operation of this amendment.

Proposed Effective Date

AFA suggests that since petitions for exemptions are submitted without a proposed effective date, it is difficult for interested parties to know when their comments must be submitted. Therefore, they suggest that § 11.25(b) should clearly specify that a proposed effective date of the exemption is required. Under new § 11.27(c), twenty days will be allowed for public comment. Final action will not be taken until the comment period has been completed. Thus, the public will know the specific date by which their comments must be submitted.

Comment Period

AFA suggests that subsections (b) and (c) of section 11.27 should be amended to state that summaries will be published within 7 days after receipt. While the FAA will make every effort to publish the summaries when received, priorities and staffing limitations may prevent publication of these summaries immediately. In addition, FAA documents are only published twice a week as a result of Federal Register requirements. Therefore, the FAA believes that requiring publication of these summaries within a certain time frame would create an undue administrative burden on the agency.

Section 11.27(c) states that 20 days will be allowed for public comment after publication of a petition for exemption. The IUFA states that "as NPRMs will be allowed 60 days, so should the petitions for exemptions." NYDOT suggests that 30 days rather than 20 days should be allowed for public comment on petitions for exemptions. In determining the time period allowed for the submission of comments, the need to provide adequate time for public response must be balanced against the continued handling of petitions in a timely manner. The FAA believes that a 20 day comment period will enable the agency to meet both of these objectives. In this connection, it must be noted that § 11.47(a) states that comments submitted after the closing date "are considered so far as possible without incurring expense or delay."

ACAP recommended in its comments that the proposal be modified to state that the agency has 120 days after the closing of the initial comment period to initiate rule making or else deny the petition. They state that "by acting in this time frame, the Administration can assure the petitioner and the public at large that it is moving swiftly on the resolution of important safety questions." Although the agency does respond to most petitions for rulemaking within this time frame, the response to a particular petition is dependent upon regulatory priorities within the agency (many involving safety issues), staffing limitations, and the complexity of the issues raised. Since these factors vary and to a large extent are not under the agency's control, a time limitation such as the one proposed by ACAP would not be beneficial and in fact would in many cases result in the premature denial of petitions.

1. If the Administrator determines to reduce the public comment period, deviations should be published in the Federal Register as should the basis of the Administrator's determination.

2. The basis upon which the disposition was made and the reasons why contrary comments submitted to the FAA were rejected.

3. FAA's findings on each safety issue to be stated with the justification for those findings.

As to the suggestion that deviations to the length of the public comment period be published, if a period other than stated in the regulation is utilized, that information will be included in the summary. The purpose of the publication of the summaries is to keep the public advised as to FAA rulemaking activities. The summary is not intended to be a complete synopsis of agency documents. Instead, it is intended that parties interested in a particular petition for exemption or rulemaking will write to the FAA or go to the FAA docket section to obtain a copy of the document which interests them.

Therefore, it is not necessary to publish the basis upon which the disposition was made or why certain public comments were rejected since that information will be contained in the final disposition.

Documents to be Published

AFA suggests that "emergency exemptions" be published as required by section 11.27(e), (f), (g) and (h). They state that publication, although after the fact, would inform the public of the FAA's actions in emergency situations. The FAA concurs. The provisions of § 11.27(f), (g), and (h) will apply to emergency actions.

AFA suggests that petitions for rulemaking and exemptions involving Airworthiness Directives and those involving Part 139 should be subject to the same publication and comment requirements as are other petitions. ALPA states that exemptions from the requirements of Part 139 and "deviations allowed by the Administrator from the provisions of Part 121 should be made subject to the formal processing," since they raise questions concerning such matters as the adequacy of the crash, fire and rescue status at airports, and operating requirements such as survival equipment aboard aircraft.

Exemptions processed under Part 139 and exceptions to airworthiness directives are processed by FAA regional offices and basically concern local situations which are of limited interest to the general public. To subject these regional actions to the publication requirements of section 11.27(c) would create an undue administrative delay which would slow down the regulatory process. After further review, however, the FAA agrees that exemptions granted or denied under Part 139 or airworthiness directives should be published in accordance with section 11.27(f) and (g). Accordingly, section 11.27(i) and (j) are amended to require publication of these summaries.

As to ALPA's suggestion that regulatory deviations be included in the exemption process, the FAA does not believe that deviations are analogous to the regulatory actions included in this amendment. Deviation authority is contained in specific regulations. The public was given the opportunity to comment on the deviation authority when the regulation in which it was contained was promulgated. As a result of this and since deviations are granted at the local level primarily for specific factual situations, the FAA does not believe that they should be included within the publication requirements of this amendment.

The FAA does agree that deviation requests should be documented and available to the public. Therefore, the FAA is instituting a new procedure whereby deviation requests submitted by a carrier will be maintained in a docket by the FAA certificate holding office having jurisdiction over the carrier's operations. Individuals wishing to examine a particular docket should contact the certificate holding office in order to make arrangements to review the docket.

The NPRM specifically solicited comments on the usefulness of publishing medical exemptions from Part 67. The only comments received on this issue were from NYDOT and AOPA. NYDOT stated that they did not see any value in publishing summaries of FAA actions on medical exemptions. AOPA

sections of the Federal Aviation Regulations relating to issuance of U.S. airman certificates, maintenance requirements, and minimum equipment lists. They further state that expeditious handling of a petition for exemption in these situations is essential before the lease agreement can be completed.

As previously stated, the FAA believes that these procedures will not delay the agency's exemption process. In this connection, it must be noted that a petitioner seeking expedited handling of a petition for exemption is obligated under § 11.25(b) (1) to submit the petition at least 120 days before the proposed effective date of the exemption unless good cause is shown. The FAA does agree, however, that in certain circumstances, such as in foreign lease arrangements, a one or two day period may be critical to the consummation of the lease. In a situation where a petitioner has met the obligation to show why the petition is not submitted 120 days before the proposed effective date and where any delay might be detrimental, the FAA believes the public comment procedures of § 11.27(c) should not apply. A situation in which detriment to the petitioner is shown would fall within the "good cause" provision of § 11.27(j)(3).

In order to maximize public involvement in the exemption process, however, the types of petitions to which this exception is applicable will be strictly limited. Section 11.27(j)(3) is amended to set forth these limitations. The factors considered in this "good cause" determination are (1) whether the relief sought is routine and similar to other exemptions issued in the past or would set a precedent; (2) whether the time required for publication would be detrimental to the petitioner, and (3) whether the petitioner has filed the petition in a timely manner. It must be emphasized that the burden to show that "good cause" exists under § 11.27(j)(3) is on the petitioner. The petitioner must present sufficient information in the petition, so that a determination under this section can be made.

Although in these cases, a summary of the petition for exemption will not be published in accordance with § 11.27(c), a summary of a grant of exemption (§ 11.27(e)) or a denial of exemption (§ 11.27(g)) will be published. In this connection, it must also be noted that under new section 11.55(a) and (b), effective November 9, 1978 (43 F.R. 52203) there are procedures for reconsideration of denials or grants of petitions for exemption. Therefore, the public will have an opportunity to submit their views if they contest the grant of an exemption and submit a petition for reconsideration.

Review of Comments

ACAP states that proposed § 11.27(g) is broadly written and could be interpreted as permitting the Administrator to deny a Petition solely on the basis of adverse initial reaction during the comments phase. Under this section, the agency is required to make a determination as to whether the petition justifies the relief requested. This determination must satisfy judicial requirements. Therefore, the FAA does not believe that this section need be amended.

Adoption of Amendment

Accordingly, the Federal Aviation Administration amends Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

(Secs. 313 and 601 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 and 1421); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the proposed "Department of Transportation Regulatory Policies and Procedures" published in the Federal Register June 1, 1978 (43 FR 23925). In addition, this amendment is procedural in nature and the Federal Aviation Administration has determined that the expected impact of it is so minimal that it does not require an evaluation.

Order 12044, these amendments simplify the process by which petitions are submitted. In addition, these amendments reflect a redesignation of certain offices within FAA Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Edward P. Faherman, Regulations and Enforcement Division (ACC–200), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone: (202) 755–8716.

SUPPLEMENTARY INFORMATION: Part 11 of the Federal Aviation Regulations (FAR) states that any interested person may petition the Administrator for rulemaking or exemption. A specific office is not designated where these petitions must be submitted. As a result of this, petitions are submitted to various offices within the agency. Therefore, certain petitions have been misdirected resulting in increased processing time. In order to maintain a current public docket of petitions received and to eliminate processing delays, this amendment requires that certain petitions for rulemaking or exemption be submitted to the Rules Docket (ACC–204), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. The amendment also clarifies where certain other petitions must be submitted. This amendment does not change the procedures relating to (1) airspace assignment and use (which must pursuant to 14 CFR 11.63(a) be filed with the appropriate Regional Director); (2) petitions for exemption under Part 139 (which must pursuant to 14 CFR 11.25(b)(2)(i) be filed with the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport); and, (3) Airworthiness Directives (which must pursuant to 14 CFR 11.83 be filed with the Director responsible for the product involved).

In connection with petitions filed under the provisions of § 11.25, among other things they must set forth the text or substance of the rule or amendment proposed, the interests of the petitioner in the action requested; in the case of a petition for exemption, the nature and extent of the relief sought, the reasons why it. would be in the public interest, and if appropriate in the case of an exemption, the reason why the exemption would not adversely affect safety.

Certain portions of the Office of the Chief Counsel have been assigned different office routing symbols. As a result of this, it is necessary to delete the symbols currently contained in the regulations and to replace them with the newly assigned ones. FAR Part 13 lists two of these reference numbers in mailing addresses and, therefore, needs to be updated.

Since these amendments are editorial in nature and impose no additional burden on any person, notice and public procedure are unnecessary and good cause exists for making them effective in less than 30 days.

The Amendments

Accordingly, Parts 11 and 13 of the Federal Aviation Regulations (14 CFR Parts 11 and 13) are amended, effective May 27, 1980.

[Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).]

NOTE—The Federal Aviation Administration has determined that this document involves a regulation that is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since these documents are editorial in nature and impose no additional burden on any person, the Federal Aviation Administration has determined that there will be no economic impact and thus no evaluation is required.

reduction of existing regulatory material. Consistent with the President's goal of reforming the regulatory process to eliminate unnecessary requirements, these amendments will enable the FAA to issue and amend TSO's in a timely manner. In addition, it is part of the FAA's continuing effort to simplify the Federal Aviation Regulations. The expeditious issuance of new TSO's and amendment of existing TSO's (presently published as Subpart B of Part 37) are necessary to stay current with the continuing growth and technological advances in aeronautics.

FOR FURTHER INFORMATION CONTACT: Mr. Eli S. Newherger, Regulatory Projects Branch, AVS–24 Safety Regulations Staff Associate Administrator for Aviation Standards Federal Aviation Administration 800 Independence Avenue, S.W. Washington, D.C. 20591; Telephone: (202) 755–8716.

SUPPLEMENTARY INFORMATION:

Background

Whenever a material, part, process, or appliance is to be used on an aircraft, it must be approved under the Federal Aviation Regulations (FAR) before it can be utilized. The approval can be obtained in one of the following ways: (1) under a Parts Manufacturer Approval issued under 14 CFR 21.303; (2) in conjunction with type certification procedures for a product, including approvals granted by a supplemental type certificate; (3) under a Technical Standard Order authorization or approval issued under 14 CFR Part 37; or (4) in any other manner approved by the Administrator.

One of the several methods of obtaining approval is by designing and testing the article (material, part, process, or appliance) in accordance with a TSO which contains minimum performance and quality control standards for specified articles. The standards for each TSO are those the Administrator finds necessary to ensure that the article concerned will operate satisfactorily. Since compliance with a TSO is only one method of obtaining an approval, the standards contained in the TSO are not mandatory but are only an optional way of obtaining approval for a particular article. For example, an applicant can obtain approval to deviate from a particular TSO if it shows that the design features provide an equivalent level of safety.

A TSO is not a standard of general or particular applicability designed to implement or prescribe law or policy. It does not fall within the definition of "rule" contained in the Administrative Procedure Act (5 U.S.C. 551). There is no requirement that a TSO be published as a notice of proposed rule making in the Federal Register.

Future TSO's will, through incorporation by reference, make maximum practical use of "voluntary standards" as defined by the Office of Management and Budget (OMB) Circular A–119, "Federal Participation in the Development and Use of Voluntary Standards," issued January 17, 1980 (45 FR 4326). By definition of OMB Circular A–119, "voluntary standards" are established generally by the private sector "voluntary standards bodies" and are available for use by any person or organization, private or government. The term includes what are commonly referred to as "industry standards" as well as "consensus standards" but does not include professional standards of personal conduct, private standards of individual firms, or standards mandated by law. "Voluntary standards bodies" are nongovernmental bodies which are broad based, multimember, domestic, and multinational organizations including, for example, nonprofit organizations, industry associations, and professional technical societies which develop, establish, or coordinate voluntary standards.

The FAA has determined, for the reasons stated in Notice 79–15, published in the Federal Register on Octoher 1, 1979 (44 FR 56370), that, in the interest of safety, it is appropriate to adopt new public procedures to facilitate the issuance of TSO's for specified articles used on civil aircraft. The safety aspect of this rule making is particularly important. The fact that TSO's have been part of the complex regulatory structure of the FAA has caused a substantial lag time between regulations and state of the

previously published as Subpart B of 14 CFR Part 37, and making them available through the multiple procedures described below, the FAA has improved the availability of the TSO's and made it easier for the public to locate the most up-to-date standard. In addition, by removing TSO's from the agency's regulatory process, the time available for other matters within the regulatory system will be increased. This will enable the agency to respond in a more timely manner to other issues submitted by the public. This improvement of the regulatory process, to be more responsive to the public, is consistent with Executive Order 12044, issued by President Carter on March 23, 1978.

Discussion of Comments

Twenty-two individual sets of public comments were submitted in response to Notice 79–15. Several of the commenters were associations that presented the views of manufacturers, operators, and pilots. While the great majority of the commenters were in general agreement with the objective of the proposal, a numher of them suggested changes, requested clarification or guidance, and offered specific criticisms. Other commenters proposed changes that are beyond the scope of this rule making.

Discussion of Comments to the New Public Procedure

In general, the commenters concerned themselves with the following questions: How would TSO authorizations be obtained? Would foreign countries accept them? How would a request for approval to deviate from any performance standard be handled? How would an interested party request a revision to a TSO? How would a current TSO be affected when a revision to the TSO is made? How would the public comment on a draft TSO? How would the FAA revise the sections of the Federal Aviation Regulations which reference a TSO by TSO numher? One commenter expressed concern that adopting the proposal would abolish existing TSO's.

Based on comments received, the FAA, has determined that the proposed new public procedure may not have been fully understood as it was explained in Notice 79–15. The purpose of the new public procedure is to expedite the issuance of TSO's for specified articles used on civil aircraft by deleting unnecessary rulemaking steps and by deleting unnecessary material from the regulations. This effort is consistent with Executive Order 12044. There is no change in the requirements for the issuance of TSO authorizations which are relocated from Subpart A of Part 37 to new Subpart O of Part 21. There is no change in the procedure to issue TSO authorizations, to process requests for approval to deviate from any performance standard, or to request a revision to a TSO. Existing holders of TSO authorizations will continue to retain their current status when new or amended TSO's are issued, unless otherwise specified in the TSO. Manufacturers may request approval to deviate from any TSO using the same procedures as before, now described in new § 21.609.

The new public procedure does not affect the right of the public to comment on a proposed TSO. The public will continue to be invited to participate in the development of documents prepared and issued by industry organizations which the FAA will use by reference in a TSO. The FAA will use the rulemaking process to revise the sections of the Federal Aviation Regulations which reference a TSO by TSO number when there is a need to change the referenced TSO number. The FAA will make available to any interested person an index of each current TSO and each TSO the FAA anticipates will be issued within the succeeding 12 months. The FAA will also invite comments from interested persons on each proposed TSO using a notice in the Federal Register.

Public Procedure

The following is the public procedure, in detail, the FAA will use to develop and issue final TSO's for specified articles used on civil aircraft:

The FAA will continue to develop draft TSO's and will continue to use, by reference in the TSO, documents prepared and issued by organizations such as the Radio Technical Commission for Aeronautics (RTCA) and the Society of Automotive Engineers (SAE). Notices of RTCA meetings and invitations

on how to obtain copies of those desired. Finally, the FAA will publish periodically a notice in the Federal Register of each proposed TSO and provide notice of how to obtain a copy.

Any individual or organization wishing to obtain copies of Advisory Circular 20–110, specific draft TSO's, or all such TSO's proposed by the FAA may be placed on a mailing list by submitting a request addressed to the Federal Aviation Administration, Office of Airworthiness, Aircraft Engineering Division, Systems Branch (AWS–130), 800 Independence Avenue, S.W., Washington, D.C. 20591, or by telephoning (202) 426–8395. Interested persons will receive copies of the Advisory Circular and copies of those draft TSO's requested. Any person wishing to submit comments on a proposed TSO will be given 90 days from its issuance date to submit comments.

All comments received on or before the closing date for comments will be considered by the Administrator before issuing a final TSO.

All comments submitted will be available, both before and after the closing date for comments, for examination by interested persons in Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 pm.

Copies of the final TSO will be mailed to all persons on the mailing list. As in the past, documents prepared and issued by an organization that are incorporated by reference in the TSO will continue to be available to any interested person only from that organization. Final TSO's will not be published in the Federal Register.

Copies of all draft and final TSO's will also be available at FAA Headquarters in the Office of Airworthiness, Aircraft Engineering Division, Systems Branch (AWS–130), and at all regional Flight Standards Engineering and Manufacturing offices.

In summary, the new procedure has numerous opportunities for the public to participate in the development of each TSO. These are: (1) participation in the development of documents prepared and issued by industry organizations, which the FAA may use by reference in a TSO; (2) mailing lists to circulate a draft TSO to the public for comment; (3) an advisory circular to list for the public each TSO the FAA anticipates will be issued within the succeeding 12 months; (4) notice in the Federal Register announcing the availability of each draft TSO and invitation for comment; and (5) at least 90 days to submit comments.

Discussion of General Comments

One commenter recommended tightening the TSO requirements, citing three airplane incidents (the loss of a piece of tail, the loss of a wing flap, and the failure of a rear bulkhead). This amendment does not address the requirements of any individual TSO. Furthermore, TSO authorizations are not issued for the airframe parts that the commenter cited. FAA approval for these airframe parts is accomplished under the type design approval for the specific airplane.

One commenter cited TSO references in §§ 91.24(a), 91.52, and 121.360 and questioned if the FAA plans to revise these sections to delete the referenced TSO. The FAA is not revising the referenced TSO in these sections. Since Part 37 is being revoked by this amendment, references to TSO's using sections of Part 37 (§ 37.XXX) are revised to reference each TSO by the TSO number.

One commenter stated that there may be problems relating to the enforcement of the provisions of Advisory Circular 20–110 under proposed §§ 21.603(a), 21.607(a), 21.609, and 21.611. It is unclear to what this commenter is referring since the advisory circular merely lists each current TSO and each TSO the FAA anticipates will be issued within the succeeding 12 months.

and comments to proposed § 21.617 are discussed under § 21.3. Section 21.617 adopted by this amendment relates to a different subject than that of proposed § 21.617 which is discussed under § 21.617.

One commenter suggested revising proposed § 21.617(a) and (b) to require mechanical reliability reporting of TSO articles (currently required for Parts 121, 127, and 135 operators) for Part 91 operators or owners. The commenters cited greater user awareness of such problems for justification. Because the FAA is currently reviewing the entire mechanical reliability reporting program and the issue will be addressed at a later date, the suggestion was not adopted.

Another commenter asked if imported articles would be exempt from the reporting requirements of proposed § 21.617. Section 21.3(d)(2) does exempt foreign manufacturers from the reporting requirements of § 21.3(a) because there are existing means by which the FAA obtains the necessary information from the appropriate airworthiness authorities in the country of manufacture. As a result of the information provided by the foreign authorities, it is not necessary to apply the requirements of § 21.3(a) to foreign manufacturers.

Another commenter suggested removing the phrase "After January 3, 1971" from proposed § 21.617(a) and (b). Based on these comments and upon further consideration, the FAA has amended § 21.3(a), (b), (d), and (e)(3)(ii) to make them applicable to holders of a TSO authorization, relocated proposed § 21.617(f) to new § 21.3(f), deleted the phrase "After January 3, 1971," from § 21.3(a) and (b), and deleted proposed § 21.617.

Discussion of Comments to Subpart O of Part 21

No unfavorable comments were received on the proposal to amend § 21.305(b) or on proposed §§ 21.609, 21.611, 21.613, 21.615, 21.619, and 21.621. Accordingly, these proposals are adopted without substantive change.

One commenter suggested deleting § 21.305(d) and amending § 43.7 to specify that any alteration or major repair approvals granted under Part 43 be limited to the specific aircraft (by type and serial number) upon which work is performed. The commenter stated that the provisions of § 21.305(d) in conjunction with discretionary functions of § 43.7 would "administratively lead to arbitrary and capricious application of subjective standards." No proposal was made in Notice 79–15 to amend §§ 21.305(d) and 43.7 as suggested by the commenter. Furthermore, since the FAA does not have sufficient information at the present time to justify such amendments to §§ 21.305(d) and 43.7, the suggestion is not adopted.

One commenter suggested placing the TSO procedural requirements under Subpart K instead of proposed Subpart O and questioned the need for the proposed new Subpart O. Relocation of the procedural requirements of Subpart A of Part 37 in new Subpart O, as proposed, would retain the same paragraph format subdivisions which are easy to read and use. This would make the regulations easier to use for all members of tbe public. Therefore, these requirements are relocated in Subpart O.

One commenter suggested that TSO authorizations be transferable. The FAA does not agree. TSO authorizations are not transferable like type certificates because authorizations are issued based on the person's quality control system and ability to duplicate the article under the TSO system.

§ 21.601

No unfavorable comments were received on proposed § 21.601. However, the FAA is adopting an amendment to § 21.601 by adding paragraph 21.601(c) which states that the Administrator does not issue a TSO authorization if the manufacturing facilities for the product are located outside of the United States, unless the Administrator finds that the location places no undue burden on the FAA in administering applicable airworthiness requirements. This additional requirement is necessary to ensure that proper surveillance can be maintained over the manufacturer's facilities. The need to impose this restriction is based upon the type of surveillance necessary over a manufacturer having a TSO authorization. It is identical to the restriction placed upon manufacturing facilities to which type certificates are issued in accordance

under obsolete standards which that product could not meet current standards. Holders of such letters must comply with the requirements of §§ 21.607 through 21.615, 21.619, and 21.621. In general, when an application for TSO authorization is made, the applicable standards for the article are those in effect on the date of application. The FAA did not propose to revise § 21.603(b) to withdraw letters of acceptance issued before July 1, 1962, or any TSO authorization issued after July 1, 1962, and to require all manufacturers to demonstrate compliance with the current TSO performance standards. No unfavorable comments were received on the proposal to relocate the substance of § 37.3 to new § 21.603. Accordingly, the proposal is adopted without substantive change.

§ 21.605

One commenter recommended revising proposed § 21.605(a)(2) to require one copy of the technical data required in the applicable TSO issued by the Administrator unless additional copies are requested by the Administrator. The FAA agrees this would reduce the number of copies of the technical data the applicant would need to submit. Another commenter suggested revising the last sentence of proposed § 21.605(a)(3) to add the phrase "or numbers (or combinations thereof)" between the words "letters" and "will." The commenter stated this would allow the use of suffix numerals as well as letters to designate minor changes to TSO articles. The FAA agrees. After further review, the FAA has determined that the use of part numbers in proposed §§ 21.605(a)(3) and 21.611(a) to identify minor design changes would simplify and expedite approval of such changes. This is consistent with Executive Order 12044 in that it lessens the regulatory burden on the public. Accordingly, § 21.605 is adopted with the noted changes.

§ 21.607

One commenter suggested deleting proposed § 21.607(d)(3) because the required weight information is not necessary as a part of the nameplate and it is provided elsewhere. The FAA agrees. Section 21.607(d)(3) is deleted and § 21.607(d) is renumbered. The same commenter recommended amending proposed § 21.607 to list the required data and information currently listed in the performance standards of each TSO to further simplify the TSO system. The FAA has determined that since the data and information listed in each TSO are not common to all TSO's, the recommendation, if adopted, would impose unnecessary requirements on some TSO authorization holders. Accordingly, proposed § 21.607 is adopted without substantive change.

Issue of Letters of TSO Design Approval: Import Appliances

New § 21.617

In order to implement the requirements contained in §§ 21.601(b)(2), 21.603(d) and 21.609(b), the FAA is adopting procedural requirements which reflect current practice for the issuance of letters of TSO design approval for import appliances (see discussion of § 21.601). New § 21.617, which is totally different in subject from proposed § 21.617 (see § 21.3), prescribes the procedural requirements and, as adopted, §§ 21.601(b)(3), 21.603(a), and 21.609(b) are revised to address foreign manufacturers. These procedural requirements reflect the current practice. Adopting this procedure causes no burden on any person and it has the benefit of formalizing the current practice. The FAA finds that notice and public procedure are unnecessary.

NOTE: This rule contains provisions for the issuance of a TSO authorization and a letter of TSO design approval. To differentiate, a TSO authorization is limited to manufacturers of articles (materials, parts, processes, or appliances) located in the United States. These manufacturers must comply with the requirement to submit quality control system data in addition to certifying that their design complies with the pertinent TSO. Conversely, a letter of TSO design approval is processed under the provisions of airworthiness bilateral agreements and is limited to appliances as defined in pertinent airworthiness bilateral agreements. Such approvals do not require submitting quality control data. The quality control

is benefit in having all of the certification procedures for products and parts in Part 21 of the Federal Aviation Regulations. Accordingly, the proposal to revoke Part 37 is adopted without change.

NOTE: There is no change in reporting and/or recordkeeping requirements which are relocated from Subpart A of Part 37 to new Subpart O of Part 21.

Adoption of the Amendments

Accordingly, Parts 11, 21, 25, 29, 37, 91, 121, 127, and 135 of the Federal Aviation Regulations (14 CFR Parts 11, 21, 25, 29, 37, 91, 121, 127, and 135) are amended, effective September 9, 1980.

(Sections 303(d), 313(a), 601,603, and 605, Federal Aviation Act of 1958, as amended (49 U.S.C. 1344, 1354(a), 1421, 1423, 1424, and 1425; Section 6(c), Department of Transportstion Act (49 U.S.C. 1655(c)).)

NOTE: The FAA has determined that this document involves regulations which are not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Amendment 11–19

Redelegation of Authority

Adopted: July 8, 1980 **Effective: Septemher 10, 1980**

(Published in 45 FR 47837, July 17, 1980)

SUMMARY: These amendments redelegate authority formerly held by the Director, Flight Standards Service, to the Director of Airworthiness or the Director of Flight Operations, as appropriate. These amendments are necessary because of a reorganization within FAA Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Eli Newberger, Regulatory Projects Branch (AVS–24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION: In 1979 Flight Standards Service was reorganized under the Associate Administrator for Aviation Standards. Flight Standards Service was abolished and the Offices of Airworthiness, Flight Operations, and Aviation Safety were established. References to the Director, Flight Standards Service, contained in the Federal Aviation Regulations need to be redelegated to the appropriate new office. In addition, since § 11.49(b)(2) was deleted by Amendment 11–18 (45 FR § 11.49(b)(3) is designated § 11.49(b)(2).

Notice and Public Procedure

Since these amendments are editorial and administrative in nature and impose no burden on the public, I find that notice and public procedure are unnecessary.

The Amendments

Accordingly, Parts 11, 91, 121, 135, and 137 of the Federal Aviation Regulations (14 CFR Pacts 11, 91, 121, 135, 137) are amended, effective September 10, 1980.

Airworthiness Review Program-Amendment No. 8A: Aircraft, Engine, and Propeller Airworthiness, and Procedural Amendments

Adopted: August 27, 1980 **Effective: October 14, 1980**

(Published in 45 FR 60154, September 11, 1980)

SUMMARY: These amendments to the Federal Aviation Regulations update and improve the airworthiness standards applicable to the type certification of aircraft, engines, propellers, related operating rules, and procedural requirements. These amendments are part of the Airworthiness Review Program.

FOR FURTHER INFORMATION CONTACT: Marvin J. Walker, Regulatory Review Branch, AVS–22 Safety Regulations Staff Associate Administrator for Aviation Standards, Federal Aviation Administration 800 Independence Avenue, SW Washington, D.C. 20591; Telephone: (202) 755–8714

SUPPLEMENTARY INFORMATION:

These amendments are the ninth and last in a series of amendments issued as part of the Airworthiness Review Program. The following amendments have previously been issued as part of this program:

Title and FEDERAL REGISTER (FR) Citation

Amendment No. 1: Form Number and Clarifying Revisions (40 FR 2576; Jan. 14, 1975)
Amendment No. 2: Rotorcraft Anticollision Light Standards (41 FR 5290; Feb. 5, 1976)
Amendment No. 3: Miscellaneous Amendments (41 FR 55454; Dec. 20, 1976)
Amendment No. 4: Powerplant Amendments (42 FR 15034; March 17, 1977)
Amendment No. 5: Equipment and Systems Amendments (42 FR 36960; July 18, 1977)
Amendment No. 6: Flight Amendments (43 FR 2302; Jan. 16, 1978)
Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978)
Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; Feb. 4, 1980)

These amendments are for the most part based on Notice 75–31 which was published in the FEDERAL REGISTER on July 11, 1975 (40 FR 29410), as well as a number of proposals contained in the following notices of proposed rule making: Notice 75–10 (40 FR 10802; March 7, 1975); Notice 75–19 (40 FR 21866; May 19, 1975); and Notice 75–26 (40 FR 24802; June 10, 1975). Amendments based on the latter three notices have already been issued as a part of the Airworthiness Review Program, specifically those titled Miscellaneous Amendments, Powerplant Amendments, and Airframe Amendments, respectively. Final action on certain of the proposals was deferred, however, at the time the amendments were issued as farther consideration and review of these proposals was considered necessary. In other cases, final action was deferred so that they could be considered together with related proposals contained in other notices.

Certain proposals identified as Group 2 in Appendix I to Notice 75–31 were deferred to be dealt with in a later notice as a part of the Airworthiness Review Program. These proposals all addressed the concept of periodically updating the certification basis of airplane models in long-term production. Such recertification every five or ten years would be intended to ensure that the level of safety of all airplanes in service keep pace with the current level of safety expectations. The FAA has now determined that these proposals more appropriately should be examined as a separate issue in a future regulatory action. Accordingly, the proposals identified as Group 2 in Appendix 1 to Notice 75–31 are being dropped from the Airworthiness Review Program.

Proposals relating to cabin safety and flight attendants, which are identified in this amendment, were extracted from Notice 75–31 (40 FR 29410; July 11, 1975) and handled on an expedited basis.

The following discussions are keyed to the like-numbered proposals contained in Notices 75–10, 75–19, 75–26, and 75–31, and are presented in the same order as the corresponding amendments found in the rules portion of this document.

Proposal 8–1. The proposal to amend § 1.1 in order to transfer the definitions for rated power and thrust to a new § 33.6 is withdrawn. It is considered that such a change may introduce confusion in the administration of aircraft certification rules. See also Proposal 8–94.

Proposal 8–2. Several commenters object to proposed § 21.16(a) which would delete reference to a "novel and unusual design feature" as a necessary condition for the Administrator to issue special conditions. Special conditions become a part of the designated applicable regulations for type certification of a particular product (aircraft, aircraft engine, or propeller).

One commenter indicates that the proposed revision is unjustified and would lead to indiscriminate rule making, and that instead of simplifying the administration of the requirements it would introduce complexity. Another commenter claims that adoption of proposed § 21.16(a) would introduce uncertainty into design requirements.

One commenter suggests that in lieu of revising § 21.16, the FAA should perform a study of § 21.21(b)(2). (Section 21.21(b)(2) provides for denial of a type certificate if an unsafe feature or characteristic exists in the design under consideration. Before adoption of § 21.16, FAA used § 21.21(b)(2) to issue special conditions in letter form.) This commenter suggests that if § 21.21(b)(2) were to continue to be used to issue special conditions to cover an unsafe design feature or characteristic that is not "novel or unusual," it must be equally applicable to a condition that exists on more than one (earlier certificated) product, further stating that the other product or products must then have been type certificated using existing rules which did not adequately cover the unsafe design feature or characteristic. On this premise, the same commenter asks several relevant questions. When § 21.21(b) (2) is applied, does the FAA make it retroactive to the other involved models? Are Airworthiness Directives (Part 39) issued? Why wasn't a special condition issued against the first applicant when the condition was, in fact, novel or unusual? Why was this not followed by a notice of proposed rule making for future application?

These comments and questions caused the FAA to completely reevaluate its practices in designating the applicable regulations for type certification under § 21.17(a), commonly referred to as defining a "type certification basis."

After further consideration of the comments received as well as FAA practice in designating the applicable regulations, and the objectives of proposed § 21.16, the FAA agrees that this proposal should be withdrawn because of the potential for possible abuse of general rulemaking procedures, of the requirements of the Administrative Procedure Act, and the intent of Executive Order 12044. As explained below, the objectives of proposed § 21.16 will be satisfied by the application of a new FAA policy affecting the designation of applicable regulations for the type certification of new aircraft, aircraft engines, and propeller designs. These future practices are consistent with the FAA General Rule-Making Procedures of Part 11, the Administrative Procedure Act, and Executive Order 12044.

Section 21.16 is one paragraph of a number of paragraphs used to define the type certification basis of a new product. Companion paragraphs of importance to this discussion include §§ 21.17 and 21.21. Section 21.17(a) provides that the applicable airworthiness standards are (1) those requirements of this subchapter that are effective on the date of application for a type certificate, unless otherwise specified by the Administrator or unless compliance with later effective amendments is elected by the applicant or required by special retroactive regulations (e.g., § 25.2), and (2) any special conditions prescribed by the Administrator in accordance with § 21.16. Section 21.16 provides for the issuance of special conditions when the Administrator finds that the existing airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of the product to be type certificated. Section 21.21(b)(1) permits noncompliance with specific provisions of the airworthiness standards

make reasonable performance guarantees to its potential customers; (3) in the interests of safety, rapid technological advances presently being made by the civil aircraft industry require that the FAA be able to issue special conditions to address truly novel or unusual design features that it has, as yet, not had an adequate opportunity to envisage in the airworthiness standards through the general rulemaking process; and (4) because the airworthiness standards of this subchapter are intentionally objective in nature to allow flexibility in design, the FAA must retain the prerogatives both to make equivalent safety findings and to deny a type certificate whenever an unsafe design feature or characteristic is found during the type certification process.

The phrase "novel or unusual" as used in § 21.16 is a very relative term. As used hereafter in applying § 21.16 to justify the issuance of special conditions, "novel or unusual" will be taken with respect to the state of technology envisaged by the applicable airworthiness standards of this subchapter. It must be recognized that in some areas which will vary from time to time the state of the regulations may somewhat lag the state of the art in new design because of the rapidity in which the state of the art is advancing in civil aeronautical design and because of the time required to develop the experience base needed by the FAA to proceed with general rule making. Applicants for type certification of a new design have the opportunity to mitigate the impact of not knowing the precise airworthiness standards to be applied for "novel or unusual design features" by consulting with the FAA early in their certification planning when such features are suspected or known by the applicant to exist. It should also be recognized that, because of the intentional objective nature of the airworthiness standards of this subchapter, many new design features which might be thought of as "novel or unusual design features" may already be adequately covered by existing regulations, thus obviating the need to issue special conditions.

Henceforth, the special condition will not be issued for general upgrading of the applicable airworthiness standards when novel or unusual design features are not involved. Whenever the FAA determines that an upgrading of the airworthiness standards of this subchapter is warranted, the upgrading will be promulgated as an amendment. to this subchapter consistent. with the general rulemaking procedures of FAR Part 11, the Administrative Procedure Act, and Executive Order 12044. Should the FAA conclude that there is a compelling safety need to apply a proposed amendment retroactively to designs already type certiflcated or to designs for which a type certificate application is in progress, the retroactive aspects of the proposed amendment, if supportable by a regulatory analysis completed in accordance with Executive Order 12044, will be announced in the notice or proposed rule making for that amendment. Public comments on the proposed retroactive aspects will be considered in determining the applicability of the adopted rule.

A number of products for which special conditions have not as yet been issued are undergoing type certification at the time of this amendment. Should the FAA conclude that recent or future amendments to this subchapter should be applied to these products that would not otherwise be applicable under § 21.17(a)(1) then an amendment to require retroactive application will be proposed and acted upon through the general rulemaking process explained above, in lieu of issuing special conditions under § 21.16.

Also, the provisions of § 21.21(b)(2) will no longer be used to justify the issuance of special conditions. However, just as an Alrworthiness Directive may be issued under Part 39 to require the correction of an unsafe condition that is likely to exist or develop in a product of the same type design, notwithstanding a showing of compliance with the applicable airworthiness standards, § 21.21(b)(2) may continue to be used to deny issuance of a type certificate if a similar unsafe feature old characteristic is found during the type certification process, notwithstanding a showing of compliance with requirements designated by § 21.17. The unsafe features and characteristics envisaged by § 21.21(b)(2) are those related to specific design configuration or product characteristics of a particular design, that one would not normally expect the applicable airworthiness standards to specifically preclude because of their intentionally objective nature.

It is the practice of the FAA to develop and publish a Type Certificate Data Sheet as an integral part of each type certificate. The type certification basis is recorded on the Type Certificate Data Sheet

and § 21.16 of Part 21 are amended to require special conditions to be issued in accordance with the existing general rule-making procedures. As is now the case, a docket will continue to be maintained for each set of special conditions, and all material in the docket will continue to be available for public review.

Proposal 8–3. This proposal is one of a group of proposals dealing with the establishment of Instructions for Continued Airworthiness and the responsibilities of maintenance personnel and aircraft operators with respect to those instructions. The group is made up of the following proposals: 8–3, 8–5, 8–21, 8–25, 8–58, 8–62, 8–64, 8–67, 8–77, 8–80, 8–89, 8–91, 8–92, 8–93, 8–97, 8–98, 8–99, 8–104, 8–106, 8–107, 8–110, and 8–111.

A commenter representing a number of scheduled air carriers objects to the requirement in § 21.31(c) that the type design include the Airworthiness Limitations section of the Instructions for Continued Airworthiness because of the information to be included in that section. Although this commenter does not object to including mandatory replacement times for life-limited parts in the Airworthiness Limitations section, the commenter strongly objects to including inspection intervals and related procedures. Under proposed §§ 43.16 and 91.163(c), the commenter points out, air carriers would be required to comply with these maintenance-related airworthiness limitations. The FAA does not agree that inspection intervals and related procedures can be omitted from the Airworthiness Limitations section of the Instructions for Continued Airworthiness. For example, the proposed Airworthiness Limitations section on a transport category airplane must contain mandatory inspection intervals and related procedures because the damage tolerance concept described in § 25.571 is predicated upon the use of such inspections to detect initial cracks in principal structural elements before crack growth under repeated loads could progress to a degree which would cause catastrophic failure of the airplane. However, the FAA does agree that §§ 43.16 and 91.163(c) should permit modification of these intervals and procedures by other FAA approved methods. Accordingly, inspection programs approved under §§ 121.25(b), 121.45, 121.367, 123.21(b), 127.13(b), 127.133, 135.5, 135.17, 135.419, 135.421, and 135.425, as defined by approved operations specifications, or an inspection program approved under § 91.217(e) constitute acceptable alternatives. The appendices to Parts 23, 25, 29, 31, 33, and 35 as adopted in this amendment require the applicant to specify (in the Airworthiness Limitations section) mandatory replacement times, inspection intervals, and related procedures. Sections 43.16 and 91.163(c) have been revised to show that only the inspection times and procedures may be adjusted under approved alternative programs.

A commenter objects to § 21.31(c), which in general is applicable to manufacturers, since continued airworthiness, which is covered in the paragraph, is the responsibility of the operator. Because this comment pertains more directly to § 21.50, it is dealt with in conjunction with Proposal 8–5.

In addition to comments relating to the Instructions for Continued Airworthiness, a commenter objects to § 21.31(a) because the proposal to include a list of drawings and specifications in the type design was not mentioned at the Airworthiness Review Conference. In fact, this proposal did appear as an FAA comment on Proposal No. 565 in the Committee I Workbook (titled "Procedures and Special Subjects") made available to all participants at the conference, and may be found in the docket.

Several commenters object to § 21.31(d) because including analyses in the type design—(1) would be redundant, since it is already required as part of the substantiating data; (2) is unnecessary, since the drawings and specifications required under current § 21.31(a) provide the general information needed by the FAA; and (3) introduces the possibility that the FAA would require the manufacturer to provide any and all data used to prepare the drawings and specifications, thereby delaying type certification. The FAA agrees that proposed § 21.31(d) would serve no useful purpose and it is withdrawn.

Proposal 8–4. A commenter objects that § 21.35(b)(2) eliminates flight testing for reliability, contending that analysis and ground test are not dependable as a basis for certification. In the light of this comment, and after further consideration and experience, the FAA has determined that flight testing for reliability

satisfactory way of establishing the means for maintaining airworthiness. Current FAA practice allows operators of new transport category airplanes to utilize FAA MRB recommendations (reference FAA Advisory Circular No. AC 121–22) for starting their maintenance programs, and then vary them with FAA approval as experience and operating conditions dictate. The commenter points out that, contrary to that practice, the amendment will require the manufacturer to obtain FAA approval of its recommended maintenance procedures before the airplane is type certificated, and to obtain FAA approval of revisions to those procedures (necessitated by any improvement change in the airplane) before approval of the change itself. This, the commenter states, will impose a severe and unnecessary hardship on the manufacturer.

On the first and second points, although the operator/owner does have responsibility for continued airworthiness, the FAA has found that the recommended maintenance procedures made available under current regulations are frequently inadequate in scope and content, and often do not provide a sound basis for the operator/owner to maintain the airworthiness of the aircraft. The FAA has concluded that the lack of such recommended maintenance procedures can best be remedied by requiring that they be made available to owners and operators by the type certificate or supplemental type certificate holder. On the third point, while it is true that not all operators/owners are required to establish and comply with a continuous airworthiness program, those that voluntarily wish to set up such a program are often handicapped by the lack of comprehensive instructions, which would be remedied by § 21.50(b). On the other hand, those required to establish a program will benefit from the more detailed and comprehensive instructions made available to them under § 21.50(b). On the fourth point, which is directed toward aircraft that will be maintained in accordance with an FAA approved operations specification and maintenance program under Parts 121, 123, 127, 135, or an approved inspection program under § 91.217(e), the FAA recognizes that these procedures for maintaining airworthiness of the products have functioned satisfactorily. In this regard, the FAA expects that operating segments of the air transportation industry would continue to work with type certification applicants in defining adequate maintenance instructions prior to type certification. The FAA MRB document, which is a product of contributions made by both the operators and manufacturer, could be picked up by the type design holder and included as a part of the required Instructions for Continued Airworthiness, thus continuing the usefulness of the existing MRB practices for the original entry into service of new product designs. Likewise, the additional maintenance instructions that would be required and which are not typical to MRB documents, but are presently required in air carrier operators' FAA approved maintenance programs, could also be picked up by the type design holder. Therefore, the screening process that would be utilized by the FAA in reviewing such maintenance documents would not unnecessarily delay type certification or approval of design changes after certification. See also the discussion under Proposal 8–3.

A commenter questions the need for the provision in § 21.50(b) requiring that the Airworthiness Limitations section of the Instructions for Continued Airworthiness be furnished with each aircraft, engine, or propeller. The FAA agrees that this provision is unnecessary, as the type certificate holder must make the manual available, and the operator/owner must comply. To require a manual to be furnished with each equipment would be redundant, and in some instances, would be unnecessary. Accordingly, the requirement that the Airworthiness Limitations section be furnished with each airplane or product is revised to require that the section be furnished to each owner of the type.

A commenter objects to § 21.50(b) insofar as it applies to rotorcraft type certificated under Parts 27 and 29, contending that the manufacturer is already required under those parts to furnish a maintenance manual, which has allegedly been proven adequate. The FAA does not agree. The proposed Instructions for Continued Airworthiness, which are broader in scope and more detailed than the maintenance manual currently required under Parts 27 and 29, would provide the operator/owner with the minimum amount of information needed to maintain the airworthiness of increasingly complex rotorcraft currently being designed.

A commenter suggests that § 21.50(b) be revised to make it clear that an aircraft manufacturer need not supply Instructions for Continued Airworthiness pertaining to engines and propellers until the

airworthiness certificate to allow activities such as crew training, and therefore prior to the approval of the Airworthiness Limitations section. Accordingly, the phrase "upon request" has been deleted from § 21.50(b) and the language has been revised to require that at least one set of the complete Instructions for Continued Airworthiness be furnished upon delivery to the customer, or subsequent to issuance of the first standard certificate of airworthiness, whichever occurs later.

Proposal 8–6. Commenters object to the proposal to make § 21.97(b) applicable to all products rather than to engines only because—(1) the volume of paperwork would increase out of proportion to any benefits that might be gained; (2) the applications for supplemental type certificates would be significantly more complex, since there are frequently many configuration variations within an aircraft model and a fleet operator would have to list all of the configurations or make separate application for each; and (3) the term "specific configuration" must be defined if the proposal is to be properly administered. In light of these comments and after further consideration, the FAA concludes that this proposal requires additional study and it is withdrawn.

Proposal 8–7. No unfavorable comment was received on the proposal to amend § 71.123 to require a manufacturer to submit a manual describing its production inspection system and means for controlling materials and parts. Accordingly, the proposal is adopted without substantive change.

Proposal 8–8. A commenter objects to § 21.143(a)(2) contending that substitution of the word "supplier" for "subsidiary" introduces a major change to the requirements, involving increased paperwork and costs. The FAA does not agree. The FAA has consistently administered § 21.143(a)(2) as applying to all raw materials, purchased items, parts, and assemblies supplied to the prime manufacturer. The change does not involve increased paperwork or costs because it is a semantic change which clarifies the definition of persons or entities subject to the quality control data requirements of § 21.143, without expanding any of those requirements. The use of the term "subsidiary" is unclear because it implIes that there must be a corporate connection between the prime manufacturer and his supplier. Accordingly, the language has been revised to reflect the FAA's intent that the quality control data requirements of § 21.143(a)(2) apply to all "suppliers" of each prime manufacturer. For similar reasons and for internal consistency, § 21.143(b) is revised to replace the term "subsidiary manufacturers" with the term "suppliers".

Proposal 8–9. No unfavorable comment was received on the proposal to amend § 21.182 to ensure that the proposed new § 45.11(c) is cross referenced. Accordingly, the proposal is adopted without substantive change.

Proposal 8–10. A commenter raises the question whether a special flight permit issued under § 21.197(a)(3) would serve as a certificate of airworthiness for international flights. The FAA notes that international flights cannot be conducted under special flight permits issued under § 21.197 unless specifically authorized by the foreign authorities concerned.

Another commenter objects to § 21.197(a)(3)(ii) because as worded, the individual aircraft would have to be flown for at least 50 hours, thereby defeating the purpose of the original proposal (as submitted for the Airworthiness Review) which aimed at eliminating unnecessary delays in obtaining FAA approval of customer demonstration flights. The commenter suggests that this provision be changed to stipulate that the aircraft type must have been flown for at least 50 hours. The FAA agrees that since the proposal concerns aircraft manufactured under a production certificate, and since the aircraft type could have been flown for at least 50 hours during the type certification program, the 50 hours of flight provision is not necessary. However, the FAA does not agree with the commenter's suggested revision. It is necessary to require that production flight tests for the individual aircraft involved be satisfactorily completed before that aircraft is flown on customer demonstration flights. Accordingly, § 21.197(a)(5) is added to prescribe this condition in place of the 50 hours of flight provision.

The same commenter also suggests that § 21.197(a)(3)(ii) should be made applicable to aircraft produced under a type certificate only, since such aircraft received close production surveillance by the FAA.

to ensure that high speed buffeting does not become severe enough to prevent the pilot from reading the instruments or controlling the airplane. Accordingly, the proposal is adopted without substantive change. Also see Proposal 8–28.

Proposal 8–12. No unfavorable comments were received on the proposal to amend § 23.361 to redefine the limit engine torque load conditions to be considered for turbine engine installations and to make other changes. Accordingly, the proposal is adopted without substantive change.

Propsal 8–13. The FAA does not agree with a commenter who suggests that the lead in of § 23.371 be revised to make the gyroscopic load requirements applicable to piston as well as turbine engines. The FAA has no information to indicate a need for coverage of piston engines in this regulation, nor was any submitted by the commenter.

Another commenter concurs with § 23.371, assuming that a rational analysis of loads under § 23.371(a) is an alternate to the loads specified in § 23.371(b). This assumption is correct. No change to § 23.371 was proposed in this regard. Section 23.371 is adopted without substantive change.

Proposal 8–14. A commenter suggests that the word "operated" in § 23.729(c) be replaced by the word "lowered". The commenter states that the intent of the rule is to ensure that the gear can be lowered in an emergency. The FAA concurs, but the word "extended" is used to preserve the internal consistency of the section. Section 23.729(c) is revised accordingly.

This commenter also questions whether § 23.729(e) would an "up lob". The commenter is evidently referring to a "lock" in the sense of a positive means other than hydraulic pressure, as required to keep the gear extended by § 23.729(b). Section 23.729(e) contains no such requirement.

Another commenter suggests that the second sentence of § 23.729(e) be revised to add the words "and secured" after the words "fully extended" and "fully retracted" in order to clarify what functions the lights would indicate to the pilot. The first sentence of the paragraph clearly states that the indicators should inform the pilot that the gear is secured in the extended or retracted position.

A commenter states that the proposal is redundant since the requirement is already in effect. The FAA does not agree. This is one of several new provisions being incorporated into the current regulations to assure the reliability of small land-plane landing gear systems.

After further review, the FAA has determined that the words "and warning device" should be removed from the heading of § 23.729(e) to preclude confusion between the requirements of this paragraph and those of § 23.729(f). Section 23.729 is adopted with editorial changes and the revisions discussed.

Proposal 8–15. A commenter objects to § 23.903(f) on the grounds that it imposes new and unjustified criteria for restart capability of reciprocating engine powered airplanes. The FAA believes the requirement to be fully justified. Accidents have occurred with multiengine reciprocating powered, as well as turbine powered airplanes because pilots have not been adequately apprised of the engine restart envelope for their airplane. Therefore, the requirement must apply to both types of engine installations.

This commenter further states that § 23.903(g) is acceptable provided that the "restart requirement is understood to be within the restart envelope for the aircraft (if one is approved for the aircraft)." Present § 23.903(e)(3), as applicable to turbine engine powered small airplanes, states that it must be possible to restart an engine in flight, and § 23.903(f) requires that an approved restart envelope be established. Therefore, development of a restart envelope would be required for the approval of each turbine engine powered small airplane. As adopted, § 23.903(g) requires that, following in-flight shutdown of all engines, electrical power for ignition exists throughout the approved restart envelope.

Another commenter states that it seems inconsistent to require that electrical power be provided for ignition but not for rotational capability sufficient for an engine start. The FAA does not agree.

Proposal 8–17. A commenter suggests that since the requirement for fuel tanks to retain fuel during a landing with landing gear retracted or collapsed may be subject to individual interpretation, advisory material on compliance methods should be reviewed with industry prior to implementation of the rule. The FAA does not agree. The revision merely clarifies an existing requirement. Section 23.967 is adopted without substantive change.

Proposal 8–18. A commenter recommends that the proposal to add a new § 23.991(d) which requires that operation of any fuel pump does not adversely affect continuous engine operation, be withdrawn or its adoption delayed while the compatibility of engine and airplane fuel systems is studied. The compatibility between these systems must be established in the design process, and the relevant design considerations are well known. Delaying the requirement in favor of additional study is not warranted.

Another commenter contends that the requirement is beyond the needs of safety. The FAA agrees that the proposed requirement is too restrictive and § 23.991(d) is revised to provide that the operation of any fuel pump may not affect engine operation so as to create a hazard.

Two commenters disagree with adding a new § 23.991(d), contending that it eliminates present fuel system designs. The FAA has no information to suggest that compliance with the revised section, as discussed above, would be impossible using present fuel system designs, nor was any presented by the commenter.

The proposal is adopted with the revision discussed above.

Proposal 8–19. No unfavorable comments were received on the proposal to amend § 23.1305(n) to permit movement of the propeller blade up to 8° below the flight low pitch position before an indication of the movement is required for the flight crew. Accordingly, the proposal is adopted without substantive change.

Proposal 8–20. For comments related to withdrawal of the proposal to revise § 23.1521(a), see Proposal 8–94.

Proposal 8–21. Since the proposal for § 23.1529 is substantively identical to those for §§ 25.1529 (Proposal 8–58), 27.1529 (Proposal 8–64), and 29.1529 (Proposal 8–77), all comments on these proposals are considered here.

A commenter notes that although the explanation for § 23.1529 makes it clear that the Instructions for Continued Airworthiness need not be finalized until delivery of the first airplane, the proposal itself seems to require that they be finalized before type certification. The commenter suggests that this point be clarified. The FAA agrees, and §§ 23.1529, 25.1529, 27.1529, 29.1529, 31.82, 33.4, and 35.4, are revised accordingly.

In response to a commenter representing a group of scheduled air carriers, the FAA notes that, except for the Airworthiness Limitations section, there is no requirement that any operator/owner use the Instructions for Continued Airworthiness referred to in §§ 23.1529, 25.1529, 27.1529 and 29.1529. Moreover, the new §§ 43.13(a), 43.16, and 91.163(c) allow the use of other methods. In particular, the use of maintenance manuals and continuous airworthiness maintenance programs developed under current Parts 121, 123, 127, and 135, or an inspection program approved under current § 91.217(e), would be acceptable alternatives to the Airworthiness Limitations section. This commenter suggests that language be added to § 25.1529 to make it clear that alternatives to the Instructions for Continued Airworthiness (except the Airworthiness Limitations section) may be used. Thic suggestion was not adopted because §§ 43.16 and 91.163(c) make this provision sufficiently clear.

Proposal 8–22, 8–23, and 8–24. Final action on Proposals 8–22, 8–23, and 8–24 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978).

that the appendix provides a reasonable measure of flexibility, and anticipates no difficulties or delays in determining the acceptability of the Instructions developed by the manufacturer.

§ XX.1(b). A commenter objects to the requirement that Instructions for Continued Airworthiness be provided for appliances, contending that—(1) this information is often not available from the appliance manufacturer; (2) even when available, the information sometimes has to be revised for the particular application in a manner not approved or intended by the appliance manufacturer; and (3) the information necessary for customized equipment installations would be unreasonably costly to develop. The FAA does not agree. Such information, which is essential to the continued airworthiness of the aircraft, should be provided for each required product. Accordingly, the language of § XX.1(b) is revised to make it clear that if the aircraft manufacturer does not supply continued airworthiness instructions for the product, the Instructions for Continued Airworthiness for the aircraft must include this information. See also the discussion under § XX.3(a)(5)(i).

A commenter objects to the proposal to include information on engines and all appliances in the Instructions for Continued Airworthiness, contending that—(1) such information should be furnished by the engine or appliance manufacturer; and (2) with respect to appliances, only those for which standards have been established by FAA should be covered. On the first point, manufacturers of new engine designs are required to supply the information for their products under new § 33.4. Manufacturers of new aircraft using currently certificated engines are required by § XX.1(b) to provide the information for the engine in their Instructions for Continued Airworthiness for the aircraft. In practice, the FAA expects this information to be developed and supplied by the engine manufacturer. A similar requirement for appliances would be administratively impracticable because of the large number involved. On the second point, it should be noted that specific performance and safety standards have not been established for all essential appliances. However, upon further review, the FAA concludes that it would be unreasonable to require the aircraft manufacturer to cover appliances other than those required in applicable regulations. Accordingly, § XX.1(b), as adopted, refers only to appliances "required by this chapter."

§ XX.2. A commenter suggests a revision of this section to make clear that the Instructions for Continued Airworthiness may consist of a series of volumes, or may be supplied in other than book form, such as on microfilm or microfiche. The language in § XX.2 is sufficiently broad to cover these acceptable alternatives. Reference to the Air Transportation Association of America Specification No. 100 (where it appeared) is deleted from § XX.2(b) because it is nonregulatory.

§ XX.3, lead-in paragraph. A commenter objects to the requirement that the contents of the manual "be prepared to be understood by the persons who will be responsible for maintaining" the aircraft or product, contending that—(1) it would impose a subjective standard that would be impossible to meet; and (2) it could be interpreted to mean that, in some circumstances, manuals for aircraft to be exported must be prepared in the language of the country of export. In light of these comments, the first sentence of the lead-in paragraph of § XX.3, is revised to read as follows: "The contents of the manual or manuals must be prepared in the English language." This conveys the intent of the original proposal. A commenter points out that there may be different levels of maintenance instructions, directed at different classes of operators. For example, the maintenance instructions provided to a fleet operator or commuter airline may be more comprehensive than those provided to a fixed base operator. Any level of maintenance instructions considered appropriate by the manufacturer may be submitted, provided that those instructions comply with the minimum standards in the appendix.

§ XX.3(a)(2). A commenter recommends that the requirement for complete descriptions be limited in scope to the "standard" aircraft and "quantity-installed" optional equipment, contending that it would be virtually impossible to devise "custom" maintenance manuals for each product because of the many combinations of equipment that may be ordered by the purchaser. In addition, the commenter states that a manual containing all of these combinations would be difficult to use. The FAA does not agree. To achieve its purpose, the Instructions for Continued Airworthiness must contain information on each item of equipment required by regulation to be installed on the aircraft. The FAA notes that supplemental

may be required because of the complexity of the equipment. The FAA recognizes that some accessories, instruments, and equipment have an exceptionally high degree of complexity, rag specialized maintenance techniques, test equipment, or expertise. In such cases, it would be in the interest of safety to allow the applicant to refer to the appropriate manufacturer in the maintenance instructions. The FAA does not agree, however, that such reference should be allowed in other circumstances. Section XX.3(a)(5)(i) (redesignated § XX.3(b)(1)) is revised accordingly.

A commenter recommends that the last sentence of § XX.3(a)(5)(i), be revised to allow reference to a separate spection program, rather than include it in the maintenance instructions, so that the inspection program could be better kept current and also tailored to an individual operator's needs. The FAA does not agree. The inspection program must be set forth in the Instructions for Continued Airworthiness to ensure its availability to those who will benefit from it.

The FAA, after further study of § XX.3(a)(5)(i), has decided that the provision should specifically require a description of applicable maintenance or wear tolerances. Section XX.3(a)(5)(ii) (redesignated § XX.3(b)(1)) is clarified in this regard.

§ XX.3(a)(5)(ii). A commenter objects to the words ''could occur'' in this paragraph because it encompasses everything within the realm of possibility, thereby unnecessarily increasing the volume of the maintenance instructions. The phrase ''probable malfunctions'' replaces the phrase ''typical malfunctions that could occur'' in § XX.3(a)(5)(ii) (redesignated § XX.3(b)(2)).

§ XX.3(a)(5)(iii). A commenter suggests that this paragraph would be clearer if the first three words and the last five words are deleted. Section XX.3(a)(5)(iii) (redesignated § XX.3(b)(3)) is revised accordingly.

§ XX.3(a)(5)(iv). A commenter suggests revision of this paragraph to make it clear that the overweight landing check refers to the condition in which a certificated landing weight is lower than certificated takeoff weight, since the aircraft manufacturer cannot speculate what damage might be done to an aircraft that takes off and must immediately land at a weight near the certificated takeoff weight. This comment may have merit for certain aircraft. Moreover, since an overweight landing is but one of several occurrences which would necessitate a check to determine aircraft damage, to single out one occurrence would imply that the others need not be covered in the maintenance instructions. Accordingly, the words ''checks after an overweight landing'' are deleted from § XX.3(a)(5)(iv) (redesignated § XX.3(b)(4)).

§ XX.3(b). A commenter recommends deletion of the requirement for an overhaul manual or section, contending that—(1) there are many products that, for safety reasons, should not to be overhauled; and (2) the manufacturer must make the technical assessment as to whether a product can be safely overhauled. In the light of these comments, and after further consideration, the FAA finds that those portions of § XX.3(b) that provide for overhaul information only (except for engines), should not be required in the Instructions for Continued Airworthiness. Accordingly, §§ XX.3(b)(1)(i), XX.3(b)(1)(ii), XX.3(b)(1)(iv), XX.3(b)(1)(viii), and XX.3(b)(3), are withdrawn. The other provisions of § XX.3(b) specify information that is needed for purposes other than overhaul.

§ XX.3(b)(1)(iii). No adverse comment was received on this proposal to require structural access plate information. Accordingly, it is adopted as proposed, but redesignated § XX.3(c).

§ XX.3(b)(1)(v). No adverse comment was received on this proposal to require instructions on special inspection techniques. Accordingly, it is adopted as proposed, but redesignated § XX.3(d).

§ XX.3(b)(1)(vi). A commenter points out that no part can be restored to its original condition by protective coatings or treatments. The FAA agrees, and § XX.3(b)(1)(vi) (redesignated § XX.3(e)) is revised to make this clear and to require only the information necessary to apply protective treatments to the structure after inspection.

§ XX.3(b)(1)(vii). No adverse comment was received on this proposal to require data on structural fasteners. Accordingly, it is adopted as proposed, but redesignated § XX.3(f).

Limitations section that it deems necessary to maintain structural integrity, where such items are not called out in the applicable airworthiness standards. Another commenter, representing the scheduled airlines, objects to the inclusion, in the Airworthiness Limitations section, of mandatory replacement times for parts other than life-limited parts and of mandatory inspection intervals. The resolution of these comments is discussed under Proposal 8–3. The language proposed for the Airworthiness Limitations sections of the appendices to Parts 23, 25, 27, and 29 is being retained, except that the mandatory replacement times, mandatory inspection intervals, and related procedures are specified as those associated with structural integrity-including those approved under current § XX.571. It also is made clear that FAA approved alternative programs may be used. To avoid unnecessary restriction being placed on operation, only these items are listed in the pertinent Airworthiness Limitations section. Other items can of course be listed in other sections of the Instructions for Continued Airworthiness.

Proposal 8–26. The addition of new §§ 25.101(i) and (j) would set forth requirements for automatic systems that affect performance, including automatic takeoff thrust control systems (ATTCS). In view of the evolving technology of automatic systems, the special features and functions of each design, and the complex interrelationships with other systems, the FAA has concluded that specific regulations are premature and that safety considerations can be more advantageously addressed in special conditions for specific systems. Accordingly, Proposal 8–26 and related Proposals 8–34, 8–48, and the § 25.1305(c)(9) portion of 8–50 are withdrawn.

Proposal 8–27. The revision of § 25.111(c)(4) will permit changes in power or thrust by an automatic takeoff thrust system but prohibit any change requiring action by the pilot when determining the takeoff path. Although specific proposals relating to criteria for automatic takeoff thrust systems have been withdrawn, the FAA believes that this proposal should be retained as it standardizes the procedure for determining the takeoff path, and is consistent with current practice.

One commenter implies that this rule change will add the task of monitoring conditions and instruments and thereby increase the pilot workload. Other commenters suggest that a limited provision for manual throttle setting be included, or are opposed to the proposal completely on the grounds that safety will be compromised in service. Since the rule will apply in the context of a determination of performance rather than an operating requirement, the proposal is adopted without change.

Proposal 8–28. A commenter suggests that the term "impair" in § 25.253(a)(2)(iii) be changed to "significantly impair". The FAA does not agree. In present high altitude, high Mach number jet airplanes, any recovery from upset or speed anomaly must be done essentially by reference to flight instruments. Therefore, any buffet or vibration condition which would in any way impair the pilot's ability to accurately interpret instrument information cannot be tolerated. The same commenter stated that some interpretative material on vibrational frequencies and levels of acceleration would be useful. Use of interpretative material would divert attention from the primary consideration, impairment of pilot ability, which is qualitative. Proposed § 25.253(a)(2)(iii) is adopted without substantive change.

Proposal 7–17. Although no unfavorable comment was received on the proposal to amend § 25.305(d), two commenters state that their agreement was with the understanding that both the discrete gust and the continuous turbulence analyses are required. Present § 25.341(a) requires that limit load factors be established by reference to a discrete gust encounter. Present § 25.305(d) specifies that the dynamic response of the airplane to vertical and lateral continuous turbulence must be taken into account. Both analyses are required.

Two commenters recommend that present § 25.341 be amended to require dynamic loads analysis by reference to discrete gusts having varying gust gradient distances. The FAA does not agree. The combination of discrete gust analysis under § 25.341 and continuous turbulence analysis under § 25.305 is less complex than the method described by these commenters and provides sufficient substantiation of strength. The proposal is adopted without substantive changes.

which are not covered by ultimate load tests. The proposal to require ultimate testing of all structural components therefore is deleted. In some cases, however, analysis must be supplemented by limit and/or ultimate load tests. The amendment, as adopted, is revised accordingly.

Proposal 8–30. Several negative comments were received on §§ 25.365(e) and (f), requiring airplane designers to consider pressure vessel decompression resulting from the loss of any nonplug door, detonation of a bomb within the cabin at all probable locations, and engine disintegration. Several commenters oppose designing for the loss of a nonplug door, stating that there is no reason why nonplug doors cannot be designed to be as safe as plug doors. These commenters suggest that the door design criteria be upgraded to improve door integrity. The FAA agrees that door integrity should be improved to the extent that design for their loss is not justified. Therefore § 25.783 is revised in response to Proposal 8–35 to require this improved level and § 25.365(e)(1) is withdrawn.

Many commenters object to designing for all possible bomb detonations and probable bomb locations. A commenter points out that airworthiness requirements in the past have attempted to safeguard aircraft against structural and mechanical failure, human error, natural hazards, etc. They note that no one has attempted to incorporate into airworthiness requirements the consences of homicidal or suicidal tendencies. Another commenter states that the aircraft industry has to accept responsibility for compensating the public for loss or injuries resulting from defects in its products, and the inclusion of a bomb damgge requirement in Part 25 could significantly extend the grounds of possible product liability actions, particularly with the imprecise requirements of § 25.365(e). Many commenters that the wording of § 25.365(e)(3) is so vague as to make its implementation impossible. The FAA notes that, ultimately, minimizing the loss of airplanes as a result of bomb explosions is a ground security problem.

A commenter suggests an alternative to § 25.365(e)(3) which would establish a relationship between the design maximum opening and the cross-sectional area of the pressurized shell. The FAA agrees that the proposed relationship provides an acceptable method for determining hole size. The FAA has determined that the maximum hole size required should be 20 feet, a value contained in Airworthiness Directive 75–15–05 (August 11, 1975) pertaining to openings in widy transports. Section 25.365(e)(3) is revised to allow the maximum opening to vary as a function of the cross-sectional area of the pressurized shell to account for the differences in size between narrow and widebody transports and is redesignated and adopted as § 25.365(e)(2).

The FAA finds that the maximum opening specified in adopted § 25.365(e)(2) will exceed the opening that would result from causes other than bomb explosions or engine disintegration, and that a probability safety analysis to determine hole size in passenger or cargo areas resulting from other causes is not needed. Thus, proposed § 25.365(f) is withdrawn.

In light of the comments received on proposed § 25.365(e)(4), and after further consideration, the FAA concludes that openings caused by airplane or equipment failure can occur in any compartment, and that partitions, bulkheads, and floors should be designed for openings from these causes. Thus, proposed § 25.365(e)(4) is revised accordingly, redesignated, and adopted as § 25.365(e)(3).

No adverse comments were received on proposed § 25.365(e)(2) to require design to withstand penetration of the cabin by a portion of an engine following engine disintegration and the proposal is redesignated § 25.365(e)(1) and adopted without substantive change.

Amendment to § 25.571(a)(3). Because of the change to § 25.1529 adopted in this amendment, the reference to the "maintenance manual" in § 25.571(a)(3) is no longer appropriate. For consistency, § 25.571(a)(3) references the Airworthiness Limitations section of the Instructions for Continued Airworthiness.

Proposal 8–31. Numerous unfavorable comments were received on the proposal to add a new § 25.633 requiring that essential systems be designed to minimize damage caused by detonation of a bomb in the airplane. Most commenters contend that there is no means to protect essential systems from all

separate aural warning on aircraft having direct trim control wheels in the cockpit.

The FAA agrees with the comments and upon further review concludes that the proposal is premature and unworkable. Accordingly, it is withdrawn for further study.

Proposal 8–33. Several adverse and supporting comments were received on the proposal to add a new § 25.685(e) requiring arrangement of control systems to provide an airplane with the capability of continued safe flight and landing in the event of an inflight localized structural failure. Several commenters agree with the intent of the proposal and propose minor changes. One commenter agrees with the intent of the proposal, but believes that only failures which have not been shown to be extremely improbable need be considered. Commenters state that the intent of the proposed rule change is already encompassed by § 25.365(e) which would require that floor failure resulting from rapid decompression be shown to be extremely improbable.

A commenter further states that present § 25.671(c) requires control systems to be designed to be tolerant of failures, and that control system damage is more likely from other sources. The commenter claims that service experience and rational analysis show that the floor structure provides the best available protection for the control system from damage from these other sources.

After further study the FAA agrees with the commenters that the primary objectives of this proposal are adequately covered by several existing sections of FAR 25. For example: § 25.365(e) requires that the floor be designed for pressure vessel opening which is a function of the cross-sectional area of the fuselage; § 25.571 requires all structure to be damage tolerant where practical; § 25.671 requires that control systems be tolerant of failures, including exterior damage; § 25.629 requires freedom from flutter under fallure conditions; § 25.631 requires protection of controls in the empennage structure from bird strikes; and § 25.901(d) requires design precautions be taken to minimize the hazards to the airplane, including control systems, in the event of an engine rotor fallure. The proposal therefore is withdrawn.

Proposal 8–34. For an explanation of the withdrawal of the proposals concerning automatic systems that affect airplane performance, one of which is the proposal to add a new § 25.705, see Proposal 8–26.

Proposal 8–35 and 2–59. Several commenters object to the requirement in § 25.753(e) that provisions for the inspection of door locking mechanisms must be discernable under all possible lighting conditions. The commenters state that allowance should be made for use of supplemental lighting such as a flashlight to aid in the inspection. The FAA agrees and the section is revised accordingly.

A commenter states that direct visual inspection is only needed for external doors for which the initial opening movement is not inward and which are pressurized or for which an inadvertent opening could prevent continued safe flight and landing. Although these comments have merit, they go beyond the scope of Proposal 8–35 and interested parties have not had an opportunity to comment on these changes. No change to the section is being made based on these comments. Several commenters object to the redundancy of a dual warning system requirement and state that in lieu of redundancy, a reliability level should be specified. Further comments state that all external doors do not require this level of reliability. The FAA agrees that this reliability level could be specified and should apply only to external doors for which initial movement is not inward, and the section is changed accordingly. The present language defining where door warning systems are required is retained, as no change in present practice is intended.

A commenter suggests that § 25.753(e) should specify several good design practices. These design practices are desirable but are not essential, since the necessary level of safety can be obtained by alternate means under § 25.783.

Several commenters object to new § 25.783(f), suggesting that it apply only to nonplug type doors and doors whose loss would present a probable hazard. The FAA agrees that provisions to prevent

A commenter proposes that for the door whose opening would be a hazard, the door and immediate surrounding fuselage, door mechanisms, and warning system be designed for any combination of failures (including improper operation) not shown to be extremely improbable. The FAA agrees. In place of the proposals in 8–30, with regard to §§ 25.365(e)(1), (3), and (4), a rule is included to require determination by safety analysis that inadvertent opening of doors which could prevent continued safe flight and landing is extremely improbable.

Two commenters state that the criteria for passenger egress in the revision to the second sentence of § 25.783(g) (Proposal 2–59 of Notice 75–10) should be evacuation time, and not the rate of passenger egress through a given exit. The FAA agrees. Revision of the second sentence of § 25.783(g) is redesignated as § 25.783(i) and the reference to § 25.561(a)(3) in the proposal is corrected to reference § 25.561(b)(3).

Numerous negative comments concern proposed new § 25.783(j), which requires that lavatory doors open into the cabin to preclude anyone from being trapped in the lavatory. The commenters state that this requirement is overly restrictive on design and that an outward opening door could have an adverse effect on aisle width and emergency evacuation capabilities if such a door jammed open. The FAA agrees that inward opening doors can be designed to prevent anyone being trapped in a lavatory in cases of incapacitation or for other reasons. Thus, new § 25.783(j) is revised to delete the requirement that lavatory doors open into the cabin.

Proposal 8–36, 2–60, and 8–37. Final action on Proposals 8–36, 2–60, and 8–37 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–38. One commenter objects to adding a new § 25.792 to require a sign indicating whether lavatories are occupied, asserting that it would be inappropriate for general aircraft certificated under Part 25. Two commenters doubt that the proposed rule would achieve the objective of preventing aisle congestion near lavatories. They point out that many existing aircraft have similar signs which have not prevented people from "standing in line" for lavatories. Also, passengers can cause congestion in aisles for other reasons. One of the commenters states that lighted signs in a darkened cabin; i.e., during movies or rest periods, would annoy passengers, and that the rule might foster a proliferation of signs throughout the cabin. Finally, one commenter is concerned that any increase in the number of lighted signs might distract the passengers attention from more essential notices.

Based on the comments and upon further review, the FAA finds that the proposed requirement would not achieve the objective sought. Accordingly, the proposal is withdrawn.

Proposal 8–39. Final action on Proposal 8–39 was taken in Airworthiness Review Program Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–40. Final action on Proposal 8–40 was taken in Operations Review Program Amendment No. 8 (45 FR 41586, June 19, 1980).

Proposal 8–41. A commenter suggests that new § 25.851(a)(5), which replaces current § 25.853(f), be expanded to prescribe four fire extinguishers for a passenger capacity of 100 or more, and to require at least one CO_2, dry chemical, or all purpose fire extinguisher near lavatory and galley areas. These suggested changes are beyond the scope of the notice. However, changes in these requirements are appropriate and the FAA is conducting a research program to establish comprehensive standards and guidance information pertaining to the selection of portable fire extinguishers, taking into consideration types and quantities of extinguisher agents, extinguisher performance, and other factors. Regulatory changes based on the findings of this research program will be proposed in the next airworthiness standards review.

Sections 25.851(a)(5) and (a)(6), which consolidate hand fire extinguisher requirements, are adopted without substantive change.

Proposals 8–46, 3–35, and 8–47. Final action on Proposals 8–46, 3–35, and 8–47 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Proposal 8–48. For an explanation of the withdrawal of the proposals concerning automatic takeoff thrust control systems, one of which is the proposal to add a new § 25.1143(f), see Proposal 8–26.

Proposals 8–49 and 3–41. Final action on Proposals 8–49 and 3–41 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Proposal 8–50. For an explanation of withdrawal of the proposals concerning automatic takeoff thrust control systems, one of which is the addition of a new § 25.1305(c)(9), see Proposal 8–26.

One commenter objects to revising § 25.1305(d)(1), stating that significant aerodynamic forces acting on the powerplant nacelle make the direct measurement of thrust impractical. The FAA agrees that such forces may be significant. This commenter further objects to the revision, stating that it is beyond the state of the art to prohibit a parameter from being used if the accuracy of the indication will be adversely affected by any engine malfunction or damage. The FAA agrees that precise values of thrust provided by a malfunctioning, damaged, or deteriorated engine are unnecessary, provided that any changes in thrust due to engine malfunction, damage, or deterioration are indicated to the pilot. The paragraph is revised to require that the indication must be based on the direct measurement of thrust or of parameters that are directly related to thrust.

Although concurring with § 25.1305(d)(1), one commenter states that he would prefer to retain the existing requirements and delete the words '', or to indicate a gas stream pressure that can be related to thrust,''. The FAA does not agree. The change suggested by this commenter would eliminate the requirement for thrust information and would retain the requirement for change-of-thrust information only. It also would provide a lower level of safety than the adopted paragraph.

This commenter also states that § 25.1305(d)(1) should be complementary to a similar requirement in Part 33 of this chapter. The FAA does not agree. In current practice, the airframe manufacturer determines how performance should be met. The choice of a means to indicate thrust is negotiated between the airplane manufacturer and the engine manufacturer. The factors which influence the final choice are substantial and may vary among airplane designs. These factors may not be known to the engine manufacturer at the time of engine type certification. Another commenter states that the need for an actual value of thrust is not obvious, whereas indication of a loss of thrust would satisfy the original proposal. The FAA agrees that the actual value of thrust is of little value to the pilot. Section 25.1305(d)(1) is revised to specify that the indicator indicate thrust, or a parameter related to thrust, to the pilot.

Proposal 8–51. No unfavorable comments were received on the proposal to change the reference in § 25.1307(h) for fire extinguishers in connection with Proposal 8–41. Accordingly, the proposal is adopted without substantive change.

Proposal 8–52. Final action on Proposal 8–52 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–53. Several commenters point out a number of service deficiencies with proposed § 25.1421 which defines the requirements for cargo compartment fire detection systems. They contend that the requirement for the detection system to actuate a warning within one minute of the start of a fire is too restrictive. One commenter cites the results of FAA tests which show average fire detection times to be from 1.75 to 5 minutes. The commenters also suggest that the tests necessary to show compliance with the warning requirements are not clearly defined. Finally, one commenter points out that fires in baggage containers and other enclosed containers can burn for a considerable time before detection is likely by fire detectors in the cargo compartment.

in existing § 25.1439(a) as amended by Amendment 25–38 (41 FR 55454; 12/20/76), provided that the portable oxygen requirements of § 25.1447(c)(4) are retained. Amendment 25–38 emanated from Airworthiness Review Program Notice No. 2 (40 FR 10813; 3/7/75), and was adopted (41 FR 55468; 12/20/76) after publication of Airworthiness Review Program Notice No. 8 (40 FR 29420; 7/11/75) which contained proposals 8–54 and 8–55. The FAA agrees that the existing regulations require much of what was intended by proposal 8–54, provided that proposal 8–55 is withdrawn. The FAA further agrees that additional clarifications are needed before further amendments are made to § 25.1439. Therefore the FAA withdraws both proposals 8–54 and 8–55. The subject of protective breathing equipment will be addressed in a forthcoming notice of proposed rulemaking.

Proposal 8–55. The proposal to delete § 25.1447(c)(4) is withdrawn for the reasons stated for withdrawal of Proposal 8–54.

Proposal 8–56. For comments related to the proposal to revise § 25.1521(a), and for the withdrawal of that proposal, see Proposal 8–94.

Proposal 8–57. Final action on Proposal 8–57 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–58. For comments related to the proposal to amend § 25.1529, see Proposal 8–21.

Proposal 8–59. A commenter objects to the proposed new § 25.1557(e), calling for a placard on each flight attendant seat to indicate that it may be occupied by a flight attendant, asserting that such placarding is redundant and that a proliferation of placards in the aircraft will only serve to confuse the passengers and make all placards less effective. The commenter also states that the proposal would prohibit non-flight attendant airline personnel who are cognizant of emergency procedures from occupying flight attendant seats when the aircraft is full. The FAA concludes that a new aircraft certification rule is unnecessary to achieve this result and the proposal is withdrawn.

Proposals 8–60 and 8–61. Final action on Proposals 8–60 and 8–61 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 7–55. A commenter recommends that discrete gusts with varying gradient distances be added as a supplement to Appendix 6 to Part 25. The FAA disagrees because past experience with the use of discrete gusts with varying gust gradient distances has indicated that knowledge with regard to how gust intensity varies with gust gradient distance is not currently available to the designer. The research and development work accomplished in the area of dynamic response to continuous turbulence has indicated that the continuous turbulence criteria of Appendix G to Part 25 is the most rational approach currently available which gives consistent strength levels for airplanes of different characteristics and missions.

A commenter recommends that paragraph (a) of Appendix G be revised to delete the requirement for considering combined stresses based on both vertical and lateral components of turbulence. The commenter states that the current practice of combining root-mean-square stresses (shear, moment, and torsion) resulting from gust calculations involving only purely vertical or lateral components of turbulence is a realistic, practical method for combining stress. The commenter contends that the methods for realistically combining statistical load quantities involving both vertical and lateral components of turbulence have not been satisfactorily developed in the current state of the art. After further review the FAA agrees. Paragraph (a) of Appendix G is revised to delete the requirement for considering the combined stresses resulting from the vertical and lateral components of turbulence.

A commenter recommends that paragraph (b)(3)(i) of Appendix G be revised to require a gust intensity of $U\sigma$= 75 fps gust velocity in the interval 0 to 20,000 ft. altitude with a linear decrease to 30 fps at 80,000 ft. altitude. This recommendation would obviate the need to do mission analysis to justify lower levels of loads than those required to meet the design envelope gust intensity factor

to require a gust intensity of $V\sigma$=60 fps on the interval 0 to 20,000 ft. altitude and be linearly decreased to 23 fps at 80,000 ft. altitude. The FAA disagrees. The gust intensities in paragraph (d)(1) are based on the distribution of gust intensity with altitude which were developed in the basic research for the development of continuous turbulence criteria and are, therefore, considered reasonable as a lower design envelope limit for mission analysis. A cost analysis was provided by the commenter to justify the lower gust intensities, but the FAA finds that this cost analysis was based on "design envelope analysis" alone. Paragraph (c), which is an alternative to paragraph (b), provides for a "mission analysis". Actual experience has shown that "mission analysis," which considers airplane operational characteristics, has been used in the past in lieu of the 85 fps intensities to prevent weight and cost penalties. Paragraphs (c) and (d) of Appendix G are adopted without substantive change.

A commenter recommends that paragraph (d) of Appendix G be revised to delete the reference to "fail-safe loads" since such loads are not provided in Appendix G. The FAA agrees. Paragraph (d) of Appendix G is revised accordingly. A commenter recommends that proposed paragraph (e) of Appendix G be deleted since acceleration levels measured at the pilot station on current conventional aircraft can be established by flight demonstration much more easily and with less cost than by use of an expensive analysis considering response to continuous turbulence. Upon further review, the FAA has determined that it lacks sufficient information to specify the right combination of analysis and flight test to determine the acceleration levels at the pilot's station during continuous turbulence. Accordingiy, proposed paragraph (e) of Appendix G is withdrawn. The current requirements related to operation in turbulence are adequate to determine the response at the pilot's station during continuous turbulence.

Proposal 8–62. For comments related to the proposal to add a new Appendix G to Part 25, see Proposal 8–25. Appendix G (redesignated Appendix H) to Part 25 is adopted with the changes discussed in Proposal 8–25.

Proposal 8–63. Final action on Proposal 8–63 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Amendment to § 27.571. Because of the change to § 25.1529 adopted in this amendment, the reference to § 27.1529(a)(2) in §§ 27.571(b)c), (d)(1), (d)(3), and (e) is no longer appropriate. The reference is changed to "§ A27.4 of Appendix A". This discrepancy was overlooked in Notice 75–31 (40 FR 29410; July 11, 1975). Since this amendment is clarifying in nature and does not impose a burden on the public, notice and public procedure are unnecessary and good cause exists for adopting this amendment.

Proposal 8–64. For comments related to the proposal to amend § 27.1529, see Proposal 8–21.

Proposals 8–65 and 8–66. Final action on Proposals 8–65 and 8–66 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–67. For comments related to the proposal to add a new Appendix A to Part 27, see Proposal 8–25. Additional comments on this proposal, and on the proposal to add a new Appendix A to Part 29, are discussed here.

A commenter suggests that the wording of Appendix A be adjusted to take into account the differences between airplanes and rotorcraft. The FAA agrees. The appendix, as proposed, is generally equally applicable to airplanes and rotorcraft. However, several minor changes have been made to the appendix to provide for rotorcraft differences, primarily to cover rotors and differing fatigue standards.

A commenter objects to Appendix A, contending that: (1) The standards in current §§ 27.1529 and 29.1529 have been adequate in service, and (2) the proposal is excessive in scope and would create an undue burden. The FAA does not agree, having found that recommended maintenance procedures made available to operators/owners in the past were frequently inadequate in scope and content, providing no sound basis for maintaining the airworthiness of the rotorcraft. Appendix A, with the revisions and

not impose a burden on the public, notice and public procedure are unnecessary and good cause exists for adopting this amendment.

Proposal 2–154. For a discussion directly related to proposed new § 29.783(g), size the discussion under Proposal 8–35 for § 25.783(g) (Proposal 2–59 of Notice 75–10). Section 29.783(g) is adopted without substantive change.

Proposals 8–68 through 8–76 and 2–164. Final action on Proposals 8–68, 8–69, 8–70, 8–71, 8–72, 8–73, 8–74, 8–75, 8–76, and 2–164 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–77. For comments related to the proposal to amend § 29.1529, see Proposal 8–21.

Proposals 8–78 and 8–79. Final action on Proposals 8–78 and 8–79 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–80. For comments related to the proposal to add a new Appendix A to Part 29, see Proposals 8–25 and 8–67.

Proposal 8–81. No unfavorable comments were received on adding a new § 31.12 providing for standardized application of the airworthiness requirements for balloons. Accordingly § 31.12 is adopted without substantive change.

Proposal 8–82. No unfavorable comments were received on adding a new § 31.16 requiring that balloon empty weight be determined. Accordingly, § 31.16 is adopted without substantive change.

Proposal 8–83. No unfavorable comments were received on the intent of new § 31.17 which specifies performance in terms of an initial minimum rate of climb. However, a commenter raises the question whether compliance with proposed § 31.17(a) could be shown by testing at several altitudes and ambient temperatures and then extrapolating, by appropriate analysis, to the other values in the range for which approval is sought. The FAA considers that such extrapolation by analysis is an acceptable means of complying with proposed § 31.17(a), because the climb performance of balloons is based on fundamental principles and, therefore, can be predicted with sufficient accuracy from established test points.

The FAA notes that the 300 fpm climb rate requirement in § 31.17(a) was intended as a minimum standard. To make this clear, § 31.17 as adopted is revised by inserting the words "at least" before the number "300" in the first sentence of § 31.17(a).

Proposal 8–84. A commenter, referring to new § 31.19(a) governing critical uncontrolled descent, suggests that it would be difficult and time-consuming to determine which tear is the most critical single tear in the balloon envelope between tear stoppers. The FAA does not agree. An analysis, or a combination of test and analysis, would be an acceptable means of determining the most critical single tear. It would not be necessary to test each kind of tear. No other unfavorable comments were received on the proposal to add a new § 31.19. Accordingly, § 31.19 is adopted without substantive change.

Proposal 8–85. No unfavorable comments were received on the proposal to amend § 31.27(c) to be consistent with new § 31.19, Performance: Uncontrolled descent. Accordingly, the proposal is adopted without substantive change.

Proposal 8–86. No unfavorable comments were received on the proposal to amend § 31.65 updating the position light standards and expressing them in language consistent with related standards in other airworthiness parts. However, the FAA finds that the use of a cross reference to § 23.1397 as proposed in § 31.65(e) may be inconvenient for those governed by Part 31. Accordingly, § 31.65, as adopted, sets forth the chromaticity coordinates for aviation red and aviation white as currently prescribed in § 23.1397.

be furnished.

Section 31.81(b) is revised accordingly. Section 31.81(a) is adopted without substantive change.

Proposal 8–89. A commenter is concerned that proposed § 31.82 might require balloon manufacturers to prepare two overlapping maintenance documents—the maintenance manual currently supplied to operators/owners, and the proposed Instructions for Continued Airworthiness. The FAA notes that under §§ 31.82 and 21.50(b), balloon manufacturers would be required to prepare and furnish only the Instructions for Continued Airworthiness.

The FAA notes further (as discussed under Proposal 8–21) that the Instructions for Continued Airworthiness need not be finalised until delivery of the first balloon, while § 31.82, as proposed, could be interpreted to require that they be finalized before type certification. This point is clarified in § 31.82, as adopted, consistent with the corresponding requirement in Parts 23, 25, 27, and 29.

Proposal 8–90. No unfavorable comments were received on the proposal to amend § 31.85(b)(1). However; a commenter questions whether percentage figures on the required fuel quantity gauge would be acceptable. The FAA has determined that, in the particular case of balloons (for which the fuel quantity information is to an extent less important to safety than for other classes of aircraft), calibration of the fuel quantity gauge in percent of fuel cell capacity is an acceptable means of complying with the last sentence of § 31.85(b)(1). Section 31.85(b)(1), as adopted, is revised to make this clear.

Proposal 8–91. No adverse comments were received on the proposal to add a new Appendix A to Part 31. However, comments received on the proposals to add a similar appendix to Parts 23, 25, 27, and 29 (Proposal 8–25), were equally valid with respect to this proposal. Accordingly, Appendix A to Part 31, as adopted, is revised in substance as applicable.

Regarding the proposals to require generalized repair data in the Instructions for Continued Airworthiness, it is more appropriate, as well as necessary and practicable, to include specific instructions for repair of the key elements of a balloon-the balloon envelope and its basket or trapeze. This information is incorporated in paragraph A31.3(i) as revised.

Proposal 8–92. A commenter objects to § 33.4 insofar as it would require completion of the Instructions for Continued Airworthiness before the type certificate is issued, contending that a scant portion of the data and other material called for is typically not compiled until 6 months or longer after type certification. The commenter suggests that manufacturers be allowed to prepare and make available the Instructions for Continued Airworthiness before the first aircraft equipped with the subject engine is put into service, which, it claims, is the earliest such instructions would be needed. Requiring the engine manufacturer to complete the Instructions for Continued Airworthiness before the type certificate is issued would constitute an unnecessary burden. However, the FAA considers that they must be made available, and furnished, upon delivery of the first engine on an aircraft or issuance of a standard certificate of airworthiness for the aircraft, whichever occurs later. This would be consistent with corresponding requirements proposed for other products. See Proposals 8–5 and 8–21. Section 33.4 is revised and adopted accordingly.

Proposal 8–93. A commenter observes that § 33.5 requires that the instruction manual for installing and operating the engine be "approved," whereas proposed § 33.4 requires that the Instructions for Continued Airworthiness be "acceptable to the Administrator," and recommends that the latter term be used for consistency. The FAA notes that the term "acceptable to the Administrator" is widely used in Part 43 in connection with maintenance requirements, whereas the term "approved" is more frequently used in FAR Parts containing installation and operating requirements. Considering the FAR as a whole, the FAA does not agree that such consistency is essential. Accordingly, § 33.5 is adopted as proposed.

Proposal 8–94. Several commenters object to proposed §§ 33.6(e) and (f), and to proposed §§ 23.1521(a) and 25.1521(a) (Proposals 20 and 56, respectively) on the grounds that the use of rated takeoff power or thrust for 10 minutes with one engine inoperative should not be limited to "the extent that the utilization is necessary for the airplane to avoid, without necessitating turning maneuvers, obstacles beneath

and 35.99(b) is no longer appropriate. For consistency, the reference is "§ 35.4." This change was inadvertently overlooked and was not proposed in Notice 75–31 (40 FR 29410; July 11, 1975). This editorial change corrects that discrepancy. Since this amendment is clarifying in nature and does not impose a burden on the public, notice and public procedure are unnecessary and good cause exists for adopting this amendment.

Proposal 8–97. A commenter recommends that § A33.3(a)(6) of Appendix A to Part 33 be revised by adding the words "requiring periodic attention" so as to make it clear that scheduling information is required solely for parts that require such attention. The language in this section is adequate. For parts not needing periodic attention, the applicant has only to state that parts not scheduled need not be serviced.

A commenter infers incorrectly that proposed §§ 43.16 and 91.163(c) apply only to rotorcraft. These regulations with the revision proposed also affect other classes of aircraft, as well as engines and propellers.

Some comments received on the proposed appendices for Parts 23, 25, 27, and 29 (Proposal 8–25) were equally valid with respect to proposed Appendix A to both Parts 33 and 35. Accordingly, the appendices to Parts 33 and 35 are revised in substance as applicable.

Proposal 8–98. For a discussion related to proposed § 35.3 see Proposal 8–93. A commenter observes that § 35.3 requires that the instruction manual for installing and operating the propeller be "approved," whereas § 35.4 requires that the Instructions for Continued Airworthiness be "acceptable to the Administrator," and recommends that the latter term be used for consistency. The FAA notes that the term "acceptable to the Administrator" is widely used in Part 43 in connection with maintenance requirements, while the term "approved" is more frequently used in FAR parts containing installation and operating requirements. Considering the FAR as a whole, the FAA does not agree that consistency is required in this instance. Accordingly, § 35.3 is adopted as proposed.

Proposal 8–99. In response to the concern of a commenter representing a number of Part 121 operators, the FAA notes that there is no requirement that any operator/owner use the Instructions for Continued Airworthiness referred to in proposed § 35.4. The new §§ 43.13(a), 43.16, and 91.163(c) allow the use of other methods. In particular, the use of maintenance manuals and continuous airworthiness maintenance programs developed under Parts 121, 123, 127, and 135, or an inspection program approved under § 91.217(e) would be acceptable alternatives to the Airworthiness Limitations section. This commenter suggests that language be added to proposed § 35.4 to make it clear that such alternatives may be used. The FAA agrees. The language in §§ 43.16 and 91.163(c) is revised accordingly.

Consistent with the discussion on proposed § 33.4 dealing with engines (see Proposal 8–92), the FAA finds that requiring the propeller manufacturer to complete the Instructions for Continued Airworthiness before the type certificate is issued would constitute an unnecessary burden. Accordingly, § 35.4 as adopted, requires that those instructions be made available and furnished upon delivery of the first aircraft with the propeller installed, or upon issuance of a standard certificate of airworthiness for an aircraft with the propeller installed, whichever occurs later.

Proposal 8–100. No unfavorable comments were received on the proposal to amend § 35.5 to more clearly indicate the basis for operating limitations and where they are listed. Accordingly, § 35.5 is adopted without substantive change.

Proposal 8–101. No unfavorable comments were received on the proposal to amend § 35.23 to provide an extreme low pitch indication. Accordingly, § 35.23 is adopted without substantive change.

Proposal 8–102. A commenter does not concur with the proposal to revise § 35.37 to require evaluation of metallic hubs and blades, stating that the words "must", "all", and "reasonably foreseeable" in the second sentence imply responsibility beyond current knowledge and the state of the art. The FAA does not agree. These terms are used in the current rule and the current state of the art defines the limits of the provision.

for such an evaluation.

Another commenter suggests that the section be revised by adding certain technical requirements that are related to infinite component life. It is not necessary to specify requirements concerning infinite component life, since they are considered a normal part of propeller fatigue testing.

Section 35.37 is adopted as revised.

Proposal 8–103. A commenter objects to the proposal to add a new § 35.42 to define durability requirements for propeller blade pitch control system components, stating that the term "bench tests" in §§ 35.42(a) and (b) is too descriptive and restrictive. The FAA agrees that a reference to "bench tests" may be too restrictive. Other test methods may be equally acceptable in providing the necessary data. Accordingly, §§ 35.42(a) and (b) are revised to eliminate the specific reference to "bench."

The commenter also suggests that the words "in frequency and amplitude" be eliminated from § 35.42(a) since the words "cyclic testing" are fully descriptive. The FAA believes that these words are needed to prescribe key elements in the required test.

The commenter further suggests that the proposed testing to the equivalent of 1,000 hours of propeller operation is too restrictive in the case of a propeller with an overhaul period of less than 1,000 hours. The FAA considers the specific testing to be the minimum necessary to provide an acceptable safety level in service. The rule does not, however, prevent the selection of overhaul intervals of less than 1,000 hours.

Finally, the commenter suggests that the rule should permit an alternate of acceptance based upon service experience. The FAA recognizes that service experience can provide a statistical basis for determining component reliability. Its applicability, however, may vary according to such considerations as type of operation, the nature of the article under consideration, the degree of similarity between the reference article and the certification article, and the completeness of service records. Since it is dependent on such a variety of factors, the FAA does not agree that a specific alternative based on service experience should be included.

The proposal to add a new § 35.42, therefore, is adopted with the change discussed below. No adverse comments were received on the related proposed revisions to §§ 23.905, 25.905, and 33.19 to add the reference to new § 35.42, and the revisions are adopted.

Proposal 8–104. For comments related to the proposal to add a new Appendix A to Part 35, see Proposals 8–25 and 8–97.

A commenter objects to proposed § A35.1(c) of the appendix because the propeller owner (aircraft operator) would be wastefully provided with instructions and data that the propeller owner has no authority to use. The FAA does not agree. The Instructions for Continued Airworthiness must be furnished to the aircraft owner/operator who is the person responsible for maintaining the aircraft (including the propeller). The owner/operator may not be authorized to maintain the propeller, but the owner/operator can place the instructions in the hands of persons who are authorized.

The new Appendix A to Part 35, as adopted, is revised in accordance with comments discussed in Proposal 8–97.

Proposal 8–105. The proposed revision of § 43.9(a)(4) is being deferred for consideration in a forthcoming notice of proposed rulemaking of the Operations Review Program.

Proposal 8–106. A commenter representing a number of scheduled air carriers is concerned that the use of maintenance manuals and continued airworthiness programs developed under current § 121.133 and Subpart L of Part 121 (generally via Maintenance Review Board procedures), or under similar provisions of Parts 127 and 135, might not be acceptable as "other methods, techniques, and practices" under

approved maintenance program that these times are inappropriate for his operation. The use of alternatives not covered in the Airworthiness Limitations section would be allowed if approved by the Administrator. Section 43.16 is revised to specifically state the alternatives to compliance with the Airworthiness Limitations section.

Proposal 8–108. No unfavorable comments were received on the proposal to amend § 45.11 to qualify, with respect to manned free balloons, the requirements in § 45.11(a) that deal with the location of the identification plate. Accordingly, the proposal is adopted without substantive change.

Proposal 8–109. No unfavorable comments were received on the proposal to amend § 45.13 to correctly reference §§ 45.11(a) and (b) with regard to identification plate requirements. Accordingly, the proposal is adopted without substantive change.

Proposal 8–110. A commenter representing a number of scheduled air carriers recommends that the words "inspection interval, or related procedure" be deleted from proposed § 45.14. The supporting rationale is the same as submitted by this commenter concerning Proposal 8–3 to amend § 21.31(c). As discussed under Proposal 8–3, the FAA disagrees.

The language in § 45.14 covers rotorcraft as well as airplanes, balloons, engines, and propellers. To make this clear, the word "Rotorcraft" is changed to "Manufacturer's".

Two commenters object to proposed § 45.14 on the grounds that it would be impracticable to mark small parts with a part and serial number. The FAA is not aware that the marking of small parts under current § 45.14 has presented a problem. In any event, the rule allows markings that are equivalent to part and serial numbers, such as symbols enabling the identification of the part as one for which a replacement time, inspection interval, or related procedure is specified in an Airworthiness Limitations section. Identification of such parts is clearly essential for safety. Accordingly, § 45.14 is adopted as revised.

Proposal 8–111. A commenter representing a number of scheduled air carriers recommends that the words "inspection interval, or related procedure" be deleted from proposed § 91.163(c). The supporting rationale is the same as that submitted by this commenter concerning Proposal 8–3 to amend § 21.31(c). As discussed under Proposal 8–3, the FAA disagrees. However, § 91.163(c) is revised to specifically identify the acceptable alternatives to compliance with the "Airworthiness Limitations" section.

The language in proposed § 91.163(c) covers rotorcraft as well as airplanes, balloons, engines, and propellers. To make this clear, the word "Rotorcraft" in § 91.163(c) has been changed to "Manufacturer's", and a statement has been added that operations specifications approved by the Administrator may be used in lieu of the Instructions for Continued Airworthiness. Section 91.163(c) is adopted as revised.

Proposal 8–112. No unfavorable comment was received on the proposal to amend § 91.165 to clarify maintenance personnel entries in maintenance records. Accordingly the proposal is adopted without substantive change.

Proposal 8–113. Several commenters object to §§ 91.173(a)(2)(i) and (iii). A commenter states that adoption of the proposal would result in an inconsistency between § 91.173 and § 121.380, which contains the recordkeeping requirements for aircraft maintained under Part 121. The commenter also states that this inconsistency would cause great difficulty and economic hardship whenever an aircraft is sold by a Part 121 operator to a Part 91 operator and the Part 91 aircraft is maintained by a Part 121 operator under its repair station certificate. According to the commenter, the economic hardship would occur to both the Part 91 operator and the repair station. The same commenter contends that reliability information accumulated in recent years on transport category airplanes shows that there is no need for individued total time records on equipment and components. Another commenter states that proposed requirements would result in large increases in maintenance costs for Part 91 operators and that only those components that are life-limited should have to carry total times.

proposed § 91.173(a)(2)(iii) is withdrawn.

The reporting and recordkeeping requirements contained in § 91.173 have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Proposal 8–114. Several commenters agree with the intent of proposed § 91.193(c)(4) but suggest changes. A commenter suggests that the proposed installation instructions for hand fire extinguishers would be more appropriately placed in the type certification rules. The FAA does not agree. New type certification rules do not apply to aircraft already in service.

A commenter suggests that the words "unless obvious" be added to clarify when the hand fire extinguisher stowage provisions must be properly identified. The FAA agrees. Proposed § 91.193(c)(4) is revised and adopted accordingly.

Proposal 8–115. One commenter objects to the proposal to revise § 91.197(a) to require passenger information signs to meet the requirements of § 25.791. The commenter states that it is unnecessary, in many small general aviation aircraft operating under Subpart D of Part 91, to have such signs just for the sake of uniformity. The commenter also states that "nonstandard" signs now in use are wholly adequate to meet the needs of the type of operation. Finally, the commenter points out that installation costs for aircraft not currently having signs would be high and the pilot could just as easily announce the information as be could activate the signs.

Based on these comments and considering the type of operation involved, the FAA finds that the benefits associated with the proposal do not warrant its adoption. The proposal to revise § 91.197(a) is withdrawn.

Proposal 8–116, 8–117, 8–118, and 8–119. Final action on Proposals 8–116, 8–117, 8–118, and 8–119 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–120. In light of the need to conduct further testing of protective breathing equipment, the FAA withdraws its proposal to amend § 121.337, which will be addressed in an upcoming notice of proposed rulemaking.

Adoption of the Amendment

Accordingly, Parts 11, 21, 23, 25, 27, 29, 31, 33, 35, 43, 45, and 91 of the Federal Aviation Regulations are amended, effective October 14, 1980.

(Sections 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424)); and Section 6(c) of the Department of Transportation Act (49 U.S.C.1655(c))).

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the individual and address listed in the "For Further Information Contact" paragraph.

FOR FURTHER INFORMATION CONTACT: Mr. James Zahringer, Technical Standards Branch (AWS–110), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 426–8374.

SUPPLEMENTARY INFORMATION: Since these amendments affect only internal procedures of the Federal Aviation Administration and impose no additional burden on any person, notice and public procedure are unnecessary and good cause exists for making them effective in less than 30 days. However, the FAA invites interested persons to submit such written data, views, or arguments as they may desire regarding these amendments. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–204, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before the closing date (February 9, 1981) for comments will be considered by the Administrator and these amendments may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The current procedures for issuing Airworthiness Directives (ADs) were established by Amendment 11–6 to Part 11 of the FAR. Under FAR Part 11, ADs are issued by domestic FAA Regional Offices for products for which the office has certification responsibility, i.e., the product was issued a type certificate by that office or it was manufactured within the jurisdiction of that office. In addition, the FAA Washington Headquarters office issues ADs for products under the purview of FAA Regional Offices located in Europe, Alaska, and Hawaii. The initial reason for this procedure was that these offices did not have General Counsel representation for the necessary legal review of proposed ADs.

The FAA was criticized for the inconsistency in the various regions' application of AD policies and procedures which resulted from operation under Amendment 11–6. By Order 8000.44A, dated May 30, 1980, the Administrator implemented the lead region concept, in which certain FAA Regional Offices were designated as certificating regions and "lead regions" to perform regional and national aircraft certification program functions that would otherwise be accomplished by more than one region or in the FAA Washington Headquarters. The Order responds to the complaint of inconsistency, and reflects the Administrator's stated goals of greater agency efficiency and uniformity in developing and updating regulations and minimum standards, issuing ADs, and resolving precedent-setting type certification issues. As stated in the Order, improvement in these areas can best be realized through a utilization of regional engineering and manufacturing staff elements having nationally recognized areas of special expertise. For example, certification experience with transport category airplanes of over 75,000 pounds certificated takeoff weight exists almost entirely in the Western and Northwest Regions.

The workload for this type of airplane has been shifted from the Western Region to the Northwest Region, and the Order has centralized the primary certification responsibility for such airplanes in the Northwest Region. Thus, certification of all airplanes over 75,000 pounds certificated takeoff weight manufactured in any region (such as the DC–10 and L–1011, which are manufactured in California), and all transports which are foreign manufactured, regardless of weight, will be handled by the Northwest Region. Certification authority includes issuing ADs for these aircraft. The Northwest Region has also been designated as the "lead region" for all FAR Part 25 aircraft, making it responsible for advising and assisting other certificating regions on all type certification projects under Part 25.

Similarly, ADs for foreign manufactured products will be issued by the region having lead region responsibility over the type of product involved. Exceptions to this are ADs issued for Canadian manufactured helicopters and small airplanes, which will be issued by the FAA Eastern Region. Under Order 8000.44A, therefore, the FAA Washington Headquarters will no longer issue ADs for most foreign manufactured products, although it will retain the authority to issue ADs on its own initiative. This amendment to Part 11 implements this transfer.

effective December 8, 1980.

Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958(49 U.S.C. 1354(a), 1421 through 1430, and 1502); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

The Federal Aviation Administration has determined that this document involves a regulation that is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since this document imposes no additional burden on any person, the Federal Aviation Administration has determined that the economic impact is so minimal that no economic evaluation is required.

Amendment 11–20A

Airworthiness Review Program; Amendment No. 8A: Aircraft, Engine, and Propeller Airworthiness, and Procedural Amendments; Correction

Adopted: December 19, 1980 **Effective: December 29, 1980**

(Published in 45 FR 85597, December 29, 1980)

SUMMARY: These amendments correct certain minor omissions and typographical errors noted in Airworthiness Review Program No. 8A, Amendment Nos. 11–20, 21–51, and 45–12. These amendments are necessary to express correctly the FAA's intended statement of the rules, and to publish the correct effective date for new § 21.50(b).

FOR FURTHER INFORMATION CONTACT: Marvin J. Walker, Regulatory Review Branch, AVS–22, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 755–8714.

SUPPLEMENTARY INFORMATION: On September 11, 1980, Amendment Nos. 11–20 (45 FR 60170), 21–51 (45 FR 60170), and 45–12 (45 FR 60183) were published in the Federal Register. A review of those amendments shows that there were minor typographical errors and omissions, and that immediate amendments are needed to correct the amendments. The reasons for each of the amendments are explained below:

1. Section 11.49. There were two omissions and one typographical error in this section. Section "11.49(b)(4)" should be "11.49(b)(3)", and the words "is delegated" should be inserted after the word "chapter" in § 11.49(b)(3) to be internally consistent with § 11.49(b). The period at the end of § 11.49(b)(2) is replaced by a semicolon and the word "and".

2. Section 21.50. In § 21.50(b) the date "October 14, 1981" was a typographical error. Consistent with Notice 75–31(40 FR 29412) the date should have been October 14, 1980 (the effective date of amendment 21–51). In order to give the notice required by the Administrative Procedure Act, the date has been amended to "January 28, 1981," (30 days after effective date of this amendment).

3. Section 45.11. In § 45.11(a) the reference to § 43.13 was a typographical error. The reference to § 43.13 should be § 45.13.

Since these amendments are clarifying and editorial in nature and implement changes required to carry out the intent of amendments to Parts 11, 21, and 45, and impose no additional burden on any

[Sec. 313(a), 601, 603, and 604, Federal Aviation Act of 1958(49 U.S.C. 1354(a), 1421, 1423, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))].

NOTE: The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves amendments that are corrective and editorial in nature, and does not modify the substance of the regulation contemplated under the final rule, the anticipated impact is so minimal that it does not warrant preparation of a regulatory evaluation.

Amendment 11–22

Delegation of Authority to Make Determinations Under the Regulatory Flexibility Act

Adopted: August 7, 1981 **Effective: August 17, 1981**

(Published in 46 F.R. 41488, August 17, 1981)

SUMMARY: This amendment delegates to the heads of the agency's appropriate Regions, Offices, Services, and Centers, the authority to make findings and determinations under the Regulatory Flexibility Act with regard to any rulemaking document for which issuance authority has already heen delegated. This amendment is necessary to ensure timely compliance with the Act.

FOR FURTHER INFORMATION CONTACT: Edward P. Faberman, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 426–3073.

SUPPLEMENTARY INFORMATION:

The Regulatory Flexibility Act, Pub. L. 96–354, which became effective on January 1, 1981, requires consideration of the effect of proposed and final rules on small entities, i.e., small businesses, organizations, and governments. In connection with these considerations, the Act requires agency heads to make findings and determinations in several instances. For example, 5 U.S.C. § 608(b), which was added by the Act, permits an agency head to delay the completion of a regulatory flexibility analysis (an analysis of the impact of a rule on small entities) for a final rule being issued in response to an emergency situation.

Much of the rulemaking authority of the agency has been delegated to the heads of the agency's Regions, Offices, and Services. These delegations are specified in 14 CFR Part 11. In order for these rulemaking functions to be carried out efficiently, under this delegated authority, it is necessary for those delegated this authority to also be permitted to carry out the associated responsibilities under the Regulatory Flexibility Act. Accordingly, the authority to carry out Regulatory Flexibility Act responsibilities is being delegated to those officials who have already been delegated rulemaking responsibilities within the agency.

Since this amendment relates to agency management, procedures and practices, notice and public procedure on it are not required and it may be made effective in fewer than 30 days after publication in the Federal Register. For the same reasons, it is not subject to the requirements of Executive Order 12291 on Federal Regulations.

The Amendment

Accordingly, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended, effective August 17, 1981, by inserting a new paragraph in the reserved § 11.13.

SUMMARY: This amendment consolidates and displays the Office of Management and Budget (OMB) control numbers assigned to the information collection requirements of the Federal Aviation Administration by listing in Part 11 of the Federal Aviation Regulation (FAR) the part or section of the regulations stating the paperwork burden with the number assigned to that burden. This publication of the control numbers is necessary so that the public may be aware of those paperwork burdens imposed by the FAA that have been approved by the Office of Management and Budget (OMB). While complying with the intent of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35) and the procedures established in 5 CFR Part 1320, the consolidation of the 14 CFR Chapter I control numbers in Part 11 allows easier insertion of the numbers for existing requirements and more efficient changes for later ones.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard R. Smith, Executive Secretary, Regulatory Council (AGC–203), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 426–9097.

SUPPLEMENTARY INFORMATION:

Background

The Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) sought to minimize the paper burden imposed by the Federal Government while maximizing the utility of the information requested. The Act requires that the agency responsible for the burden balance the practical value of the information against the time and cost to the public in providing that information. In March 1983, the Office of Management and Budget (OMB) implemented the Act by adopting the procedures contained in Part 1320 of 5 CFR Chapter III. These procedures became effective May 2, 1983. According to these procedures, once OMB has approved a collection of information, a control number (and, if appropriate, an expiration date) will be assigned. This control number must be displayed by being published in the Federal Register and in the Code of Federal Regulations (CFR's). For existing collection requirements, OMB control numbers must be assigned and displayed by March 1, 1984, or those requirements will become ineffective.

By using a table format, the existing collection requirements for the Federal Aviation Administration can be easily inserted into Part 11 of the Federal Aviation Regulations (FAR) and efficiently amended as changes take place. Because the OMB control numbers for only one chapter are included, this amendment limits the consolidation in accordance with OMB procedures and does so with one of the formats suggested by OMB. Additionally, the consolidation promotes public awareness of approved requirements while limiting the burden on this agency in publishing the information and, thus, conforms to the intent of the Paperwork Reduction Act.

General

This amendment adds a new Subpart F to Part 11 of Title 14 of the Code of Federal Regulations (CFR's), entitled "Agency Information Collection Requirements under the Paperwork Reduction Act." Subpart F consists of § 11.101(a), which outlines the purpose of the new subpart, and § 11.101(b), which provides the display of numbers. Section 11.101(a) states that the purpose of Subpart F is to consolidate and display the OMB control numbers for the information collection requirements of the Federal Aviation Administration (FAA) pursuant to the Paperwork Reduction Art of 1980 (Title 44, U.S.C. Chapter 35). Section 11.101(b) provides the display by using a table containing the 14 CFR part or section that states the burden alongside the burden's current OMB control number.

Comments

This amendment consolidates information already approved and concerns intra-agency procedural matters upon which public comment would be useful or necessary. Because this amendment is editorial in nature, notice and public procedure are unnecessary.

as to not require a full regulatory evaluation.

Amendment 11–24

Development of Major Repair Data

Adopted: January 6, 1984 **Effective: January 31, 1984**

(Published in 49 F.R. 4354, February 3, 1984)

SUMMARY: This amendment extends the effectivity of Special Federal Aviation Regulation (SFAR) No. 36, which provides that repair stations, air carriers, air taxis, and commercial operators of large aircraft may accomplish major repairs using self-developed repair data which have not been specifically approved by the FAA. In addition, the regulation will continue to provide relief for persons from the burden of obtaining FAA approval of repair data on a case-by-case basis and allow time for the FAA to incorporate the SFAR provisions into the regulations.

Comments must be received on or before April 3, 1984.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 17551, 800 Independence Avenue, SW., Washington, DC. 20591, or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 am. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Angelo R. Mastrullo, General Aviation and Commercial Branch, AWS–340, Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 426–8203.

SUPPLEMENTARY INFORMATION:

Background

SFAR 36, which became effective on January 23, 1978, was issued to relieve qualifying certificated air carriers, air taxis, commercial operators, and repair stations of the burden of obtaining FAA approval of data developed by them for major repairs on a case-by-case basis. The certificate holders eligible for authorization under the STAR are those employing adequately trained personnel and complying with specified procedural requirements.

SFAR 36 was adopted as an interim rulemaking action to obtain information upon which to base a permanent rule change. However, most of the affected certificate holders did not utilize the provisions of SFAR 36 until it was well into its second year and near its expiration date of January 23, 1980. Since the FAA did not have sufficient data upon which to base a permanent rule change, the termination date for SFAR 36 was extended an additional 2 years, to January 23, 1982.

The FAA initiated rulemaking to consolidate certain authorizations along with those issued under SFAR 36 and make them a permanent part of the Federal Aviation Regulations. However, this rulemaking action was not completed and the termination date for SFAR 36 was extended for an additional 2 years, to January 23, 1984. Each authorization issued under this SFAR was made effective from the date of issuance until January 23, 1984. There are presently more than 20 certificated air carriers and repair stations holding SFAR 36 authorizations. For reasons unrelated to the subject matter of SFAR 36, the rulemaking project that had been continuing was canceled, and no new project is presently being developed. Consequently, to provide continuity and avoid hardship to those relying on SFAR 36 as

1984. The reasons which justified the adoption of SFAR 36 still exist, and to avoid hardship to those relying on the provisions of SFAR 36, it is in the public interest to extend the termination date of SFAR 36 from January 23, 1984, to January 23, 1989. So that previously authorized certificate holders will not be subjected to the unnecessary burden of requalifying upon expiration of the initial 2-year period, the amendment provides that each authorization issued under this SFAR has an effective period from the date of issuance until January 23, 1989. This rule extension should provide ample time for provisions to be incorporated into a permanent rule change.

Since this amendment continues in effect the provisions of a currently effective SFAR and imposes no additional burden on any person, I find that notice and public procedures hereon are unnecessary, and the amendment may be made effective in less than 30 days. However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before April 3, 1984, will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties.

Adoption of the Amendment

In consideration of the following, the Federal Aviation Regulations are amended effective January 31, 1984, by amending § 11.101 by adding a new OMB Control Number to the table in paragraph (b).

(Sections 313(a), 604 and 607, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, 1424, and 1427); 49 U.S.C. 106(g) (Revised Public Law 97–449, January 12, 1983)

NOTE: The FAA has determined that this document involves a rule change which imposes no additional burden on any person. Accordingly, it has been determined that: the rule change does not involve a major action under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 F.R. 11034; February 26, 1979); and its anticipated impact is so minimal that an evaluation is not required.

Amendment 11–25

Airport Noise Compatibility Planning

Adopted: December 13, 1984 **Effective: January 18, 1985**

(Published in F.R. 49260, December 18, 1984)

SUMMARY: This amendment adds an Office of Management and Budget (OMB) control number assigned to the information collection requirements of the Federal Aviation Administration by listing in Part 11 of the Federal Aviation Regulations (FAR) the part or section of the regulations stating the paperwork burden with the number assigned to that burden. This publication of the control number is necessary so that the public may be aware of those paperwork burdens imposed by the FAA that have been approved by the Office of Management and Budget (OMB). While complying with the intent of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35) and the procedures established in 5 CFR Part 1320, the consolidation of the 14 CFR Chapter I control numbers in Part 11 allows easier insertion of the numbers for existing requirements and more efficient changes for later ones.

Adoption of Amendment

Accordingly, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective January 18, 1985, by amending § 11.101(b).

Adopted: December 6, 1985 **Effective: March 13, 1986**

(Published in 50 F.R. 51188, December 13, 1985)

SUMMARY: This amendment adds an Office of Management and Budget (OMB) control number assigned to the information collection requirements of the Federal Aviation Administration by listing in Part 11 of the Federal Aviation Regulations (FAR) the part or section of the regulations stating the paperwork burden with the number assigned to that burden. This publication of the control number is necessary so that the public may be aware of those paperwork burdens imposed by the FAA that have been approved by the Office of Management and Budget (OMB). While complying with the intent of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35) and the procedures established in 5 CFR Part 1320, the consolidation of the 14 CFR Chapter I control numbers in Part 11 allows easier insertion of the numbers for existing requirements and more efficient changes for later ones.

Adoption of Amendment

Accordingly, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective March 13, 1986.

Authority: 49 U.S.C. 1341(a), 1343(d), 1348, 1354(a), 1401 through 1405, 1421 through 1431, 1481, 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983.)

Amendment 11–27

Aviation Insurance; Comprehensive Revision of Current War Risk Insurance Regulations

Adopted: December 6, 1985 **Effective: January 15, 1986**

(Published in 50 F.R. 51332, December 16, 1985)

SUMMARY: This amendment adds an Office of Management and Budget (OMB) control number assigned to the information collection requirements of the Federal Aviation Administration by listing in Part 11 of the Federal Aviation Regulations (FAR) the part or section of the regulations stating the paperwork burden with the number assigned to that burden. This publication of the control number is necessary so that the public may be aware of those paperwork burdens imposed by the FAA that have been approved by the Office of Management and Budget (OMB). While complying with the intent of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35) and the procedures established in 5 CFR Part 1320, the consolidation of the 14 CFR Chapter I control numbers in Part 11 allows easier insertion of the numbers for existing requirements and more efficient changes for later ones.

Adoption of Amendment

Accordingly, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective January 15, 1986.

Authority: 49 U.S.C. 1341(a), 1343(a), 1348, 1354(a), 1401 through 1405, 1421 through 1431, 1481, 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983.)

NOTE: Part 198, War Risk Insurance, is not available in loose leaf but is contained in CFR Parts 140 to 199.

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of the Federal Aviation Regulations (FAR) the part or section of the regulations stating the paperwork burden with the number assigned to that burden. This publication of the control number is necessary so that the public may be aware of those paperwork burdens imposed by the FAA that have been approved by the Office of Management and Budget (OMB). While complying with the intent of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35) and the procedures established in 5 CFR Part 1320, the consolidation of the 14 CFR Chapter 1 control numbers in Part 11 allows easier insertion of the numbers for existing requirements and more efficient changes for later ones.

Adoption of Amendment

Accordingly, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective January 21, 1986.

Authority: 49 U.S.C. 1341(a), 1343(d), 1348, 1354(a), 1401 through 1405, 1421 through 1431, 1481, 1502; 49 U.S.C. 106 (Revised, Pub. L. 97–449, January 12, 1983.)

Amendment 11–29

Emergency Medical Equipment

Adopted: December 31, 1985 **Effective: August 1, 1986**

(Published in 51 F.R. 1218, January 9, 1986)

SUMMARY: This amendment adds an Office of Management and Budget (OMB) control number assigned to the information collection requirements of the Federal Aviation Administration by listing in Part 11 of the Federal Aviation Regulations (FAR) the part or section of the regulations stating the paperwork burden with the number assigned to that burden. This publication of the control number is necessary so that the public may be aware of those paperwork burdens imposed by the FAA that have been approved by the Office of Management and Budget (OMB). While complying with the intent of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35) and the procedures established in 5 CFR Part 1320, the consolidation of the 14 CFR Chapter I control numbers in Part 11 allows easier insertion of the numbers for existing requirements and more efficient changes for later ones.

Adoption of Amendment

Accordingly, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective August 1, 1986.

Authority: 49 U.S.C. 1341(a), 1343(d), 1348(a), 1401 through 1405, 1421 through 1431, 1481, 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983.)

Amendment 11–30

General Rulemaking Procedures

Adopted: January 10, 1986 **Effective: January 17, 1986**

(Published in 51 F.R. 2348, January 16, 1986)

SUMMARY: This amendment to the FAA's administrative regulations updates the delegation of authority for the promulgation of certain orders involving airspace assignment and use. The amendment reflects

The Rule

Federal Aviation Regulations (FAR) Part 11, Subpart D, Rules and Procedures for Airspace Assignment and Use, establishes FAA procedures for the issuance of regulations for the assignment and use of airspace. These procedures include the internal agency delegations of authority to take these actions. Currently, FAR 11.61(c) defines the "Director" for purposes of Subpart D, as the "Associate Administrator for Programs, the Director, Air Traffic Service (or any person to whom he has delegated his authority in the matter concerned), or a Regional Director." However, current FAA organization does not include any position with the title of Associate Administrator for Programs or Director, Air Traffic Service. This amendment to Part 11 redefines the term "Director" in Section 11.61(c) to specify the position titles of the officials now performing those responsibilities: the Associate Administrator for Air Traffic and the Director, Air Traffic Operations Service. The existing provision for delegation of authority to other persons is retained. Consistent with the recent reorganization of air traffic headquarters elements, the delegation of authority to a regional director is no longer appropriate and is being eliminated. Authority, as necessary, will be delegated through the FAA directives system to regional air traffic division managers. Because this amendment involves only matters of internal agency management and personnel, notice and public procedure and publication 30 days prior to implementation are not required under 5 U.S.C. Section 553(a).

The Amendment

Accordingly, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective January 17, 1986.

Authority: 49 U.S.C. 1341(a), 1343(d), 1348, 1354(a), 1401 through 1405, 1421 through 1431, 1481, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983.)

Amendment 11–31

Termination of Suspension of Amendment 91–157; Minimum Equipment Lists (MEL); Correction

Adopted: May 9, 1986 **Effective: May 19, 1986**

(Published in 51 FR 18308, May 19, 1986)

SUMMARY: This amendment corrects an error made when an Office of Management and Budget Control Number was printed in the Federal Register (50 FR 51188; December 13, 1985). This amendment is required to ensure that the list of control numbers is accurate.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Safety Regulations Division (APR–200), Office of Program and Regulations Management, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20951; Telephone: (202) 426–8357.

SUPPLEMENTARY INFORMATION: When Amendment No. 11–26 was published in the Federal Register (50 FR 51188; December 13, 1985), the Office of Management and Budget Control Number (2120–0522) for § 91.30 of the Federal Aviation Regulations was added to the table in § 11.101(b). However, the language in § 11.101(b) prior to the issuance of Amendment No. 11–26 listed the control number for §§ 91.24 through 91.34 as "2120–0005." Amendment No. 11–26 inadvertently neglected to amend the language in § 11.101(b).

impact on a substantial number of small entities.

Amendment

Accordingly, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective May 19, 1986.

Authority: 49 U.S.C. 1341(a), 1343(d), 1348, 1354(a), 1401 through 1405, 1421 through 1431, 1481, 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

Amendment 11–32

Organizational Changes and Delegations of Authority

Adopted: September 15, 1989 **Effective: October 25, 1989**

(Published in 54 FR 39288, September 25, 1989)

SUMMARY: This amendment adopts changes to office titles and certain terminology in the regulations that were affected by a recent agencywide reorganization. These changes are being made to reflect delegations of authority that were changed, as well as offices that were renamed or abolished and replaced with new office designations. These changes are necessary to make the regulations consistent with the current agency structure.

FOR FURTHER INFORMATION CONTACT: Jean Casciano, Office of Rulemaking (ARM–I), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; Telephone: (202) 267–9683.

SUPPLEMENTARY INFORMATION

Background

On July 1, 1988, the FAA underwent a far-reaching reorganization that affected both headquarters and regional offices. The most significant change is that certain Regional Divisions and Offices, which formerly reported to the Regional Director, are now under "straight line" authority, meaning that these units within each Regional Office report to the appropriate Associate Administrator (or Chief Counsel) in charge of the function performed by that unit.

Within Part 11 of the Federal Aviation Regulations (FAR), various elements of the FAA have been delegated rulemaking authority by the Administrator. These delegations need to be updated. In addition, throughout the Federal Aviation Regulations references are made to offices that have been renamed or are no longer in existence as a result of reorganization.

Title 14 of the Code of Federal Regulations must therefore be amended to reflect the reorganizations and changes that have taken place.

Paperwork Reduction Act

The paperwork requirements in sections being amended by this document have already been approved. There will be no increase or decrease in paperwork requirements as a result of these amendments, since the changes are completely editorial in nature.

determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this document involves an amendment that imposes no additional burden on any person. Accordingly, it has been determined that: The action does not involve a major rule under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and because it is of editorial nature, no impact is expected to result and a full regulatory evaluation is not required. In addition, the FAA certifies that this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends the Federal Aviation Regulations (14 CFR Chapter I) effective October 25, 1989.

The authority citation for Part 11 continues to read as follows:

Authority: 49 U.S.C. 1431(a), 1343(d), 1348,1354(a), 1401, through 1405, 1421 through 1431, 1481, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

Amendment 11–33

Exit Row Seating

Adopted: June 8, 1990 **Effective: June 14, 1990**

(Published in 55 FR 24202, June 14, 1990)

SUMMARY: This document establishes the effective date for regulations concerning exit row seating that impose information collection requirements. At the time the regulations were adopted, their reporting and recordkeeping requirements had not been approved by the Office of Management and Budget, and the regulations could not be made effective. That approval process now has been completed.

FOR FURTHER INFORMATION CONTACT: Ms. Irene Mields or Mr. John Walsh, Ceneral Legal Services Division (AGC–100), Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; Telephone: (202) 267–3473.

SUPPLEMENTARY INFORMATION:

On February 28, 1990, the Federal Aviation Administration (FAA) adopted Amendment Nos. 121–214 and 135–26 prescribing requirments relating to the seating of airline passengers near emergency exits (55 FR 8054; March 6, 1990). The rules apply to aircraft operated by U.S. air carriers under Part 121 of the Federal Aviation Regulations (FAR) and commercial operators under Part 135 of the FAR, except on-demand air taxis with nine or fewer passenger seats. They require that only persons who are determined by the certificate holder to be able, without assistance, to activate an emergency exit and to take the additional actions needed to ensure safe use of that exit in an emergency may be seated in exit rows.

Because the regulations (§§ 121.585 and 135.129 of the FAR) contain reporting and recordkeeping requirements for which Office of Management and Budget (OMB) approval was required, the effective date of those sections was delayed until approval could be obtained. On April 23, 1990, OMB approved

Accordingly, the FAA amends Part 11 of the Federal Aviation Regulations (14 CFR Part 11) effective June 14, 1990.

The authority citation for Part 11 continues to read as follows:

Authority: 49 App., U.S.C. 1341(a), 1343(d), 1348,1354(a), 1401 through 1405, 1421 through 1431, 1481, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

Amendment 11–34

Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes

Adopted: July 26, 1990 **Effective: September 10, 1990**

(Published in 55 FR 32856, August 10, 1990)

SUMMARY: This final rule codifies as new Part 34 all of the applicable aircraft engine fuel venting and exhaust emission requirements of Special Federal Aviation Regulation (STAR) 27–5, and the test procedures specified under the regulations implementing the Clean Air Act. This rule consolidates all of the requirements and test procedures into this part, and inserts into other affected parts the requirements to comply with new Part 34. New Part 34 does not alter any of the requirements specified under SFAR 27–5 or the regulations implementing the Clean Air Act.

EFFECTIVE DATE: This regulation is effective September 10, 1990. The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register on November 22, 1983(48 FR 56740, December 23, 1983).

FOR FURTHER INFORMATION CONTACT: Harvey Van Wyen, Research and Engineering Branch (AEE–110), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–3558.

SUPPLEMENTARY INFORMATION:

This rule replaces SFAR 27–5 with a new Federal Aviation Regulation Part 34 as authorized by Section 232 of the Clean Air Act, as amended (42 U.S.C. 7401) (the Act) and by the authority delegated to the Administrator of the FAA by the Secretary of Transportation. This rule also amends references to SFAR 27–5 in other parts of the FARs (Parts 11, 21, 43, 45, and 91). References to new Part 34 will be added to Parts 23, 25, and 33 of the FARs. This codification of SFAR 27–5 and 40 CFR Part 87 is based on Notice No. 88–9 (53 FR 18530, May 23,1988). Comments were invited. All comments received have been considered in the issuance of this final rule.

Synopsis of the Proposal

Overview

When the Environmental Protection Agency (EPA) originally issued 40 CFR Part 87, Control of Air Pollution from Aircraft and Aircraft Engines; Emission Standards and Test Procedures in 1973, it was recognized that some portions of the standards could be implemented in a very short time period while other portions would require a much longer time period for development and testing. In accordance with Section 232 of the Clean Air Act, as amended (42 U.S.C. 7401), the FAA proceeded to promulgate compliance regulations for the near-term requirements in the form of a Special Federal Aviation Regulation, SFAR 27–5. Subsequent to the original issuance of 40 CFR Part 87, the EPA has recognized that some of the longer-term requirements were either unneeded or practically unattainable. Those longer-term require-

only SFAR 27–3 and the reader has been required to review SFAR 27–3 in its entirety in order to determine its effect on other parts. The FAA, with this final rule, codifies the compliance regulations in a single part of the Federal Aviation Regulations, and revises the other affected parts accordingly.

The provisions of 40 CFR Part 87 are applicable to each individual aircraft gas turbine engine of the classes, and as of dates, specified in that part. Compliance would require exhaust emission testing of each individual engine that is subject to the requirements of 40 CFR Part 87. The EPA has recognized in the preamble to 40 CFR Part 87, and specifically in § 87.89, that testing each individual engine would be excessively costly.

The EPA concluded that it was necessary to develop a practical interpretation of the requirement for demonstrated compliance by each individual engine and to substitute a preproduction certification program as a compliance procedure in place of compliance testing. The promulgation of such a preproduction certification compliance program has been delegated to the FAA subject to the concurrence of the Administrator of the EPA. The FAA consulted extensively with the EPA on this matter. The EPA concluded that an acceptable preproduction certification compliance program must demonstrate that, at minimum, with 90 percent confidence, 95 percent of the engines would meet the gaseous emission standards, and with 90 percent confidence, every engine would meet the smoke standards. The International Civil Aviation Organization (ICAO), in its Standards and Recommended Practices for Aircraft Engine Emissions, adopted a similar preproduction certification compliance procedure based upon a composite of historical engine-to-engine variability. Since the EPA stressed the desirability of commonality with ICAO, the FAA, with the concurrence of the EPA, adopted the compliance procedure defined in Appendix 6 to ICAO Annex 16, Volume II—Aircraft Engine Emissions, First Edition, June 1981.

The FAA solicited comments and recommendations concerning equivalent procedures in a Notice of Proposed Rulemaking (53 FR 18530, May 23, 1988). No comments were received on the equivalent procedures issue. The FAA will give any future recommendation full consideration if it is accompanied by substantive supporting data demonstrating equivalency. Should an acceptable equivalent procedure be proposed, the FAA will seek EPA concurrence with that proposed equivalent procedure as an alternative compliance procedure. The FAA cannot, however, adopt any proposed compliance procedure unless it has the concurrence of the Administrator of the EPA.

Regulatory History

Under Section 232 of the Clean Air Amendments of 1970, Pub. L. 91–604, the FAA is required to issue regulations that ensure compliance with all aircraft emission standards promulgated under Section 231 of the Act, which are currently prescribed in 40 CFR Part 87 originally issued on July 6, 1973 (38 FR 19088, July 17, 1973). Accordingly, on December 26, 1973, the FAA issued SFAR 27, (38 FR 35427, December 28, 1973). The purpose of SFAR 27 was to ensure compliance with the aircraft and aircraft engine emission standards and test procedures issued by the EPA in 40 CFR Part 87.

SFAR 27, as originally issued, required compliance only with those standards and procedures in 40 CFR Part 87 that were effective beginning February 1, 1974. Since its issuance, SFAR 27 has been amended seven times by the FAA. On December 23, 1974, the FAA issued SFAR 27–1 (39 FR 45008, December 30, 1974) to require compliance with the fuel venting emission standards in 40 CFR Part 87 that became effective January 1, 1975. SFAR 27–2, effective January 1, 1976 (40 FR 55311, November 28, 1975), required compliance with smoke emissions standards in 40 CFR Part 87 applicable to new and in-use aircraft turbofan or turbojet engines with a rated power of 29,000 pounds thrust or greater that are designed for operation on subsonic airplanes. SFAR 27–3 (42 FR 64876, December 29, 1977) required compliance with smoke emission standards in 40 CFR Part 87 for JT3D engines manufactured on and after January 1, 1978. A fourth amendment, SFAR 27–4 (45 FR 71960, October 30, 1980), was issued to require phased compliance with smoke emission standards by in-use JT3D engines beginning on January 1, 1981, with total compliance required by January 1, 1985. Subsequently, the requirement for compliance by in-use JT3D engines was automatically deleted under the terms of SFAR 27, § 3(b),

to a petition by the General Aviation Manufacturers Association (GAMA) (48 FR 46481, October 12, 1983). On July 30, 1984, the EPA denied the GAMA petition and established an August 9, 1985, effective date for smoke standards applicable to aircraft turbine engines rated below 26.7 kN (49 FR 31873, August 9, 1984). On October 9, 1984, the EPA changed the definition of "very low production" engines in the provisions for exemptions and revised the exhaust emission test fuel specification (49 FR 41000, October 18, 1984). On March 18, 1986, the FAA amended SFAR 27–5 to correct the authority citations for petitions for exemptions to SFAR 27–5 (51 FR 10612, March 28, 1986). On September 15, 1989, the FAA amended SFAR 27–5 to reflect delegations of authority that were affected by a recent agencywide reorganization (54 FR 39288, September 25, 1989).

Discussion of Comments

A total of seven written responses containing comments were received by the FAA subsequent to the publication of Notice 88–9. All of the comments submitted to the docket have been reviewed. The proposed amendments to Parts 11, 21, 23, 25, 33, 45 and 91 and the new Part 34 have been revised to reflect those relevant comments and suggestions within the scope of Notice 88–9.

Many of the comments regarding technical amendments to Parts 11, 21, 23, 25, 33, 45 and 91 were found to be of sufficient merit to warrant revisions to the final rule. Those comments recommending substantive changes to Part 34 were not adopted, since Part 34 is restricted to the direct implementation of 40 CFR Part 87 which was promulgated by the EPA. The substantive portion of Part 34 is intended to be essentially a word-for-word reproduction of the substantive portions of 40 CFR Part 87. Future comments regarding the substantive aspects of 40 CFR Part 87 should be addressed to the EPA.

Comments pertaining to amending Parts 11, 21, 23, 25, 33, 45 and 91:

One commenter noted that the proposed change in § 23.903(a)(1) and a similar change in § 25.903(a)(1) were inconsistent with a previous broad revision for all categories of aircraft which introduced a common requirement with the words "Each engine must have a type certificate." The commenter noted that the wording as stated in the NPRM would exclude engines certificated on the basis of Civil Air Regulation 13 (the predecessor to the present FAR Part 33) and all engines certificated under the provisions of § 21.29. The commenter's proposed wording also addresses another commenter's concern that the requirement for the certification of each engine under Part 34 should be restated to emphasize that the requirement is in effect only when Part 34 is applicable to that particular engine. The wording proposed by the commenter was adopted for §§ 23.903(a)(1) and 25.903(a)(1) of the final rule.

Regarding the proposed changes to § 23.951(d) and 25.951(d), two commenters noted that the requirements of Parts 23 and 25 apply to the airplane, not the engines. The proposed change offered by one of the commenters was adopted in the final rule by changing the phrase "Each fuel system for a turbine engine must . . ." to the phrase "Each fuel system for a turbine engine powered airplane must . . .".

One commenter noted that although the NPRM proposed to amend 14 CFR Parts 11, 21, 23, 45 and 91 and add a new Part 34, there was no corresponding change proposed for Part 33 requiring the applicant for a certification under Part 21 to show compliance with the applicable requirements of Part 34. The FAA concurs with the comment and has added an appropriate revision to Part 33 in the final rule.

One commenter noted that the proposed wording in the NPRM for § 45.13(a)(7) and 45.13(a)(7)(i) is inconsistent with the current practice that engines that do not have gaseous or exhaust smoke emission standards imposed by 40 CFR Part 87, namely turboprop (Class TP) engines of less than 1000 kW rated power, do not need to indicate any information on emissions on their identification plates. The commenter recommended adding the words "exhaust emissions" to the first sentence in § 45.13(a)(7) as follows: ". . . indicates compliance with the applicable exhaust emissions provisions of Part 34 .

person . . .", and that § 91.28 [91.715] be amended to reflect the exhaust emission exemption of 40 CFR Section 87.7, as is currently provided for certificates of airworthiness in § 91.28(a) [91.715(a)]. The recommendation was not adopted in the final rule. Part 87 allows for an exemption for airplanes that do not comply with emission standards when operated on flights of short duration or at infrequent intervals. These exemptions from emission compliance are not as broad as those exemptions allowed for airworthiness under § 91.28 [91.715]. Part 34 does and must reflect the requirements of 40 CFR Section 87.7.

Comments pertaining to the new Part 34:

Based on the comments received, a definition for "reference day conditions" was added to § 34.1, and § 34.1 definitions for "date of manufacture," "aircraft," and "Administrator" were amended for clarity or to conform with an existing definition of the term in use in the FARs.

Several of the comments pertained to typographical errors in the NPRM and the inclusion of additional terms in the abbreviations table in § 34.2. The commenters' recommended changes were adopted in the final rule.

Regarding the proposed § 34.60(b), a commenter suggested that the requirement to use a dynamometer for engines producing shaft power is unduly restrictive. The commenter stated that acceptance testing of most new turboprop engines is done using a propeller with either a calibrated test-stand torquemeter or the engine's integral torque measuring device. The commenter concluded that if these devices are acceptable to the FAA for determining an engine's power output they should be equally acceptable for the Part 34 tests. The comment was not adopted in the final rule. The requirement for the dynamometer was established by the EPA in 40 CFR 87.60(b). The FAA may, however, approve alternative test procedures under the provisions of § 34.3(a) or § 34.5 if proper applications are submitted. Part 34 reflects, and must continue to reflect, the requirements of 40 CFR Part 87.60(b).

One commenter indicated that the turbine fuel specifications contained in proposed § 34.61 are not consistent with the latest American Society for Testing Materials (ASTM) recommendations. In response, the FAA notes that the EPA initially adopted the turbine fuel specifications identical to those contained in Appendix 4 of Volume 2 of ICAO Annex 16. However, after much consideration, the EPA subsequently revised the fuel specifications (47 FR 58462, December 30, 1982). As required, 14 CFR Part 34 must directly adopt the revised EPA fuel specification (with the exception of a correction of a typographical error in the units of measure for kinematic viscosity). It should be noted that § 34.61 fuel specifications are more stringent than the fuel specifications in Appendix 4 of Volume 2 of ICAO Annex 16.

Section 34.7 states that all petitions for rulemaking involving either the substance of an emission standard or test procedure prescribed by the EPA, or a compliance date for such standard or procedure, must be submitted to the EPA. As stated in the NPRM (53 FR 18530, May 23, 1988), informational copies of such petitions are invited by the FAA. One commenter wrote that to invite rather than require is ambiguous and would set an undesirable precedent. The commenter concluded that if copies of the petition are not required, the provision to invite informational copies of the petition should be removed from the regulation. The commenter's suggestion has not been adopted in the final rule. The FAA feels that the invited information copies will expedite the required consultation process between the FAA and the EPA in order to determine if action on such petitions requires rulemaking under Sections 231 and 232 of the Clean Air Act, as amended.

One commenter was concerned that the fuel venting and exhaust emission requirements of Part 34 would be applied to auxiliary power unit (APU) installations through the requirements of Parts 23 and 25. The EPA proposed to withdraw emission control requirements from APU's in 1978 (43 FR 12615, March 24, 1978) and omitted APU emission control requirements from their final rule (47 FR 58462, December 30, 1982). Therefore, the FAA does not intend to impose Part 34 requirements on APUs.

not place any new or additional regulatory burden on owners/operators of any aircraft or aircraft engines; it merely recodifies the existing rules of SFAR 27 and 40 CFR Part 87. This includes in-use JT3D engines manufactured before 1978. There is no requirement in new Part 34 to retrofit in-use JT3D engines manufactured before 1978.

Paperwork Reduction Act

Information collection requirements contained in SFAR 27–5 were approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and was assigned OMB control number 2120–0508. That control number will be designated for Sections 34.7 and 45.13, as listed in Section 11.101(a).

Regulatory Evaluation

The FAA has reviewed the final rule establishing the new Part 34, "Fuel Venting and Exhaust Emission Requirements for Turbine Powered Airplanes," to determine what, if any, economic impact it will have on the aviation industry. The FAA concludes that Part 34 will not have a significant economic impact on the aviation industry and that it does not constitute a major rule pursuant to Executive Order 12291.

Section 232 of the Clean Air Act Amendments of 1970, Public Law 91–604, requires the FAA to issue regulations that ensure compliance with all aircraft emissions standards promulgated under Section 231 of the Clean Air Act, which are currently prescribed in 40 CFR Part 87. These standards and their applicability are clearly defined in 40 CFR Part 87, and the FAA has no option but to enforce them.

As part of the process of promulgating 40 CFR Part 87, the EPA conducted an economic analysis of the proposed regulations and determined that they would not constitute a major rule, as defined by Executive Order 12291 (47 FR 58469, December 30, 1982). This determination was based on the expected economic impact being well below the $100 million per year threshold set forth in the Executive Order, and the expectation that the rules would not impose significantly increased costs or other adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. enterprises to compete with those of other countries. The EPA's economic analysis containing this determination can be found in Public Docket Number OMSAPC–78–1, which may be examined at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington DC, 20406. A copy of the EPA's economic analysis has also been placed in Docket 25613 for the convenience of those interested in reviewing it. The FAA has reviewed and concurs with the findings in the EPA economic analysis.

Following the EPA's revision of 40 CFR 87, the FAA issued amended SFAR 27–5 (48 FR 56735, December 23, 1983), which required compliance with all of the provisions of 40 CFR Part 87. The SFAR was most recently amended on September 15, 1989 (54 FR 39288, September 25, 1989). The purpose of Part 34 is to replace SFAR 27–5 as a permanent part in the FAR's and to continue the enforcement of 40 CFR Part 87, as required by the statute. This action does not in any way change, add to, or take away from the standards in 40 CFR Part 87 or the requirements for compliance currently implemented under SFAR 27–5. Part 34 will not impose any new or additional regulatory requirements. On May 23, 1988, the FAA issued a notice of proposed rulemaking indicating its intention to promulgate Part 34. This NPRM contained a regulatory evaluation asserting that no new or additional cost burdens would be imposed by the new regulation. No comments were submitted in Docket 25613 disputing this assertion. Therefore, the FAA is assured that no new or additional cost burden will result from the promulgation of this regulation.

Part 34 is easier to review and understand than SFAR 27–5. Thus, persons affected by 40 CFR Part 87 will be relieved from a burden and a slight, unquantifiable benefit will result from this action.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 was enacted to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulation. The Act requires a Regulatory Flexibility Analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small business entities. As noted above, Part 34 will neither eliminate any present regulations nor impose any new regulations and, thus, will not have a significant economic impact, either detrimental or beneficial, on affected operators. Consequently, the FAA determines that, under the criteria of the Regulatory Flexibility Act of 1980, a regulatory flexibility analysis is not required.

Environmental Analysis

Pursuant to Department of Transportation, "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1D, Appendix 7, paragraph 4, Change 3, December 5, 1986), the FAA is categorically excluded from providing an environmental analysis with regard to Part 34 because it is mandated by law to issue regulations to ensure compliance with the EPA aircraft emissions standards and the EPA has performed all required environmental analyses prior to the issuance of those standards.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this document involves regulations which are not considered to be major under the procedures and criteria prescribed in Executive Order 12291. The rule is considered not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the evaluation prepared for this action is contained in the regulatory docket. A copy of the evaluation may be obtained from the person identified in the section entitled "FOR FURTHER INFORMATION CONTACT." For the reasons stated in the regulatory evaluation, I certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, these proposals, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

The Final Rule

Accordingly, the FAA amends 14 CFR, Chapter I, by amending Parts 11, 21, 23, 25, 33, 43, 45, and 91, and adding a new Part 34 effective September 10, 1990.

The authority citation for Part 11 continues to read as follows;

Authority: 49 U.S.C. 1341(a), 1343(d), 1348, 1354(a), 1401 through 1405, 1421 through 1431, 1481, 1502; 49 U.S.C. 106(g) (Revised Pub L. 97–449, January 12, 1983).

requirements for operations in various classifications of airspace; (4) describe appropriate pilot certificate requirements, visual flight rules (VFR) visibility and distance from cloud rules, and air traffic services offered in each class of airspace; and (5) satisfy the responsibilities of the United States as a member of the International Civil Aviation Organization (ICAO). The final rule also amends the requirement for minimum distance from clouds in certain airspace areas and the requirements for communications with air traffic control (ATC) in certain airspace areas; eliminates airport radar service areas (ARSAs), control zones, and terminal control areas (TCAs) as airspace classifications; and eliminates the term "airport traffic area." The FAA believes simplified airspace classifications will reduce existing airspace complexity and thereby enhance safety.

EFFECTIVE DATES: These regulations become effective September 16, 1993, except that §§ 11.61(c), 91.215(b) introductory text, 91.215(d), 71.601, 71.603, 71.605, 71.607, and 71.609 and Part 75 become effective December 12, 1991, and except that amendatory instruction number 20, § 71.1, is effective as of December 17, 1991 through September 15, 1993, and that §§ 71.11 and 71.19 become effective October 15, 1992. The incorporation by reference of FAA Order 7400.7 in § 71.1 (amendatory instruction number 20) is approved by the Director of the Federal Register as of December 17, 1991 through September 15, 1993. The incorporation by reference of FAA Order 7400.9 in § 71.1 (amendatory instruction number 24) is approved by the Director of the Federal Register as of September 16, 1993 through September 15, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Mosley, Air Traffic Rules Branch, ATP–230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 267-9251.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1982, the NAR plan was published in the *Federal Register* (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the ATC system. Organizations participating with the FAA in the NAR included: Aircraft Owners and Pilots Association (AOPA), Air Line Pilots Association (ALPA), Air Transport Association (ATA), Department of Defense (DOD), Experimental Aircraft Association (EAA), Helicopter Association International (HAI), National Association of State Aviation Officials (NASAO), National Business Aircraft Association (NBAA), and Regional Airline Association (RAA).

The main objectives of the NAR were to:

(1) Develop and incorporate a more efficient relationship between traffic flows, airspace allocation, and system capacity in the ATC system. This relationship will involve the use of improved air traffic flow management to maximize system capacity and to improve airspace management.

(2) Review and eliminate, wherever practicable, governmental restraints to system efficiency thereby reducing complexity and simplifying the ATC system.

(3) Revalidate ATC services within the National Airspace System (NAS) with respect to state-of-the-art and future technological improvements.

In furtherance of the foregoing objectives, several NAR task groups were organized and assigned to review various issues associated with airspace classifications and ATC procedures, pilot certification requirements, and aircraft equipment and operating requirements in the different categories of airspace

Class B Airspace (U.S. Terminal Control Areas). Operations may be conducted under IFR, special visual flight rules (SVFR), or VFR. However, all aircraft are subject to ATC clearances and instructions. ATC separation is provided to all aircraft.

Class C Airspace (U.S. Airport Radar Service Areas). Operations may be conducted under IFR, SVFR, or VFR; however, all aircraft are subject to ATC clearances and instructions. ATC separation is provided to all aircraft operating under IFR or SVFR and, as necessary, to any aircraft operating under VFR when any aircraft operating under IFR is involved. All VFR operations will be provided with safety alerts and, upon request, conflict resolution instructions.

Class D Airspace (U.S. Control Zones for Airports with Operating Control Towers and Airport Traffic Areas that are not associated with a TCA or an ARSA). Operations may be conducted under IFR, SVFR, or VFR; however, all aircraft are subject to ATC clearances and instructions. ATC separation is provided to aircraft operating under IFR or SVFR only. All traffic will receive safety alerts and, on pilot request, conflict resolution instructions.

Class E Airspace (U.S. General Controlled Airspace). Operations may be conducted under IFR, SVFR, or VFR. ATC separation is provided only to aircraft operating under IFR and SVFR within a surface area. As far as practical, ATC may provide safety alerts to aircraft operating under VFR.

Class F Airspace (U.S. Has No Equivalent). Operations may be conducted under IFR or VFR. ATC separation will be provided, so far as practical, to aircraft operating under IFR.

Class G Airspace (U.S. Uncontrolled Airspace). Operations may be conducted under IFR or VFR. ATC separation is not provided.

Discussion of the Amendments and Public Comments

This final rule is based on Notice of Proposed Rulemaking (NPRM) No. 89–28 (54 FR 42916; October 18, 1989). The rule amends Parts 1, 11, 45, 61, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 135, 137, 139, and 171 and Special Federal Aviation Regulations (SFAR) 51-1, 60, and 62. These parts either incorporate airspace designations and operating rules or amend the existing rule to meet the new classification language.

Amendments to Part 1 delete the definition of an ''airport traffic area'' and add definitions of ''Special VFR conditions'' and ''Special VFR operations.''

The amendments to Part 71 establish a new Subpart M—Jet Routes and Area High Routes that includes the existing rules in Part 75 as of *December 17, 1991*; revise §§ 71.11 and 71.19 as of October 15, 1992; and revise all of Part 71 to reclassify U.S. airspace in accordance with the ICAO designations as of September 16, 1993. (Further information on the amendments to Part 71 appears in this discussion under *Revisions to Part 71.*) Under this amendment the positive control areas (PCAs), jet routes, and area high routes are reclassified as Class A airspace areas; TCAs are reclassified as Class B airspace areas; ARSAs are reclassified as Class C airspace areas; control zones for airports with operating control towers and airport traffic areas that are not associated with the primary airport of a TCA or an ARSA are reclassified as Class D airspace areas; all Federal airways, the Continental Control Area, control areas associated with jet routes outside the Continental Control Area, additional control areas, control area extensions, control zones for airports without operating control towers, transition areas, and area low routes are reclassified as Class E airspace areas; and airspace which is not otherwise designated as the Continental Control Area, a control area, a control zone, a terminal control area, an airport radar service area, a transition area, or special use airspace is reclassified as Class G airspace. Because airport traffic areas are not classified as airspace areas, this amendment establishes controlled airspace for airports with operating control towers, but without control zones.

ments in § 91.215(b) and that a request for a deviation due to an inoperative transponder or an operating transponder without operating automatic pressure altitude reporting equipment having Mode C capability may be made at any time. To provide maximum flexibility to ATC and aircraft operators, this amendment has an effective date of December 12, 1991.

Amendments to Parts 11, 45, 61, 65, 93, 101, 103, 105, 121, 127, 135, 137, 139, and 171 change the terminology to integrate the adopted airspace classifications into respective regulations that refer to those airspace assignments and operating rules. In addition, § 11.61(c) is amended to meet an administrative change within the FAA for titles of persons under the term "Director."

The final rule includes modifications to the proposed rules based on amendments to the FAR that have become effective since the publication of NPRM No. 89–28. The section numbers to Part 91 are changed to match the section numbers designated by Amendment No. 91–211, Revision of General Operating and Flight Rules (54 FR 34292; August 19, 1989). Sections 91.129 and 91.130 are modified to include revisions to § 91.130 by Amendment No. 91–215, Airport Radar Service Area (ARSA) Communication Requirement (55 FR 17736; April 26, 1990). Section 91.131(c) is modified to include revisions from Amendment No. 91–216, Navigational Equipment Requirement in a Terminal Control Area (TCA) and Visual Flight Rules (VFR) Operations (55 FR 24822; June 18, 1990). Section 91.117(a) is modified to include revision by Amendment No. 91–219, Revision to General Operating and Flight Rules (55 FR 34707; August 24, 1990).

Section 91.155(b)(1) is modified to include a revision by Amendment No. 91–224, Inapplicability of Basic VFR Weather Minimums for Helicopter Operations (56 FR 48088; September 23, 1991). Section 91.155(c) was revised by Amendment No. 91-213, Night-Visual Flight Rules Visibility and Distance from Cloud Minimums (55 FR 10610; March 22, 1990) and was corrected on July 19, 1990 (55 FR 29552) and November 13, 1990 (55 FR 47309).

In this amendment, the FAA does not adopt the proposal to lower the Continental Control Area to 1,200 feet above the surface and to establish the United States Control Area as proposed in NPRM No. 88–2. The FAA will not adopt this proposal and the regulatory agenda will be revised to delete the U.S. Control Area project.

On October 4, 1990, the FAA established SFAR No. 60—Air Traffic Control System Emergency Operations (55 FR 40758) and on December 5, 1990, the FAA established SFAR No. 62—Suspension of Certain Aircraft Operations from the Transponder with Automatic Pressure Altitude Reporting Capability Requirement (55 FR 50302). These SFARs are revised by replacing references to such terms as "terminal control area" with "Class B airspace area" to integrate the appropriate airspace classification.

Obsolete clauses in the existing rule are deleted and typographical errors in the proposal are corrected. The final rule also revises affected paragraphs of the existing rule requiring modification as a result of the rulemaking action but not included in NPRM No. 89–28. The modifications to these paragraphs replace such terms as "terminal control area" and "control zone" with language to integrate the appropriate airspace classification.

Under airspace reclassification, the Sabre U.S. Army Heliport (Tennessee) Airport Traffic Area will become a Class D airspace area; the Jacksonville, Florida, Navy Airport Traffic Area will become three separate but adjoining Class D airspace areas; and the El Toro, California, Special Air Traffic Rules will become part of the El Toro Class C airspace area. Currently, these airports operate under special air traffic rules in Subparts N, O, and R of Part 93. To achieve a goal of airspace reclassification, which is to simplify airspace, the existing rules for these airspace areas are to be deleted as of September 16, 1993. Therefore, this amendment removes and reserves Subparts N, O, and R of Part 93 as of September 16, 1993.

Part 75—Establishment of Jet Routes & Area High Routes		Part 71, Subpart M—Jet Routes & Area High Routes	
§ 75.1	Applicability.	§ 71.601	Applicability.
§ 75.11	Jet routes.	§ 71.603	Jet routes.
§ 75.13	Area routes above 18,000 feet MSL.	§ 71.605	Area routes above 18,000 feet MSL.
§ 75.100	Jet routes.	§ 71.607	Jet route descriptions.
§ 75.400	Area high routes.	§ 71.609	Area high route descriptions.

Sections 71.607, Jet route descriptions, and 71.609, Area high route descriptions are not set forth in the full text of this final rule. The complete listing for all jet routes and area high routes can be found in FAA Order 7400.7, *Compilation of Regulations*, which was last published as of April 30, 1991, and effective November 1, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of this order may be obtained from the Document Inspection Facility, APA–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 267-3484. Copies may be inspected in Docket Number 24456 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–10, Room 915G, 800 Independence Avenue, SW., Washington, D.C. 20591 weekdays between 8:30 a.m. and 5 p.m. or at the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. The Part 75 sections referenced in FAA Order 7400.7 will be redesignated as Part 71 sections in the next revision to FAA Order 7400.7.

The second revision amends existing § 71.11, Control zone, and § 71.19, Bearings; radials; miles, and is effective October 15, 1992. This revision relates to the FAA's parallel reviews of certain airspace areas. The revision to § 71.11 permits the Administrator to terminate the vertical limit of a control zone at a specified altitude. The revision to § 71.19 provides for the conversion from statute miles to nautical miles and consists of the same language as § 71.7 that is effective September 16, 1993. More detail on the review of certain airspace areas is found under the title *Implementation of Airspace Reclassification.*

The third revision to Part 71 establishes a new Part 71 that includes the adopted airspace designations. This amendment, which is effective September 16, 1993, transfers the current sections of existing Part 71, including Subpart M—Jet Routes and Area High Routes, to this new Part 71. The following table lists the sections of existing Part 71, including Subpart M and the corresponding sections in the new Part 71, that are effective September 16, 1993. Subparts B through K and §§ 71.501(b), 71.607, and 71.609, which list airspace descriptions, are not set forth in the full text of this final rule. The complete listing for these airspace designations can be found in FAA Order 7400.9, *Airspace Reclassification,* which is effective September 16, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of this order may be obtained from the Document Inspection Facility, APA-220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 267-3484. Copies may be inspected in Docket Number 24456 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–10, Room 915G, 800 Independence Avenue, SW., Washington, D.C. 20591 weekdays between 8:30 a.m. and 5 p.m. or at the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

Existing Part 71	Revised Part 71 that is effective September 16, 1993, and FAA Order 7400.9
Subpart A—General	*Subpart A—General; Class A airspace*

§ 71.12	Terminal control areas.	§ 71.41	Class B airspace.
§ 71.13	Transition areas.	§ 71.71	Class E airspace.
§ 71.14	Airport radar service areas.	§ 71.51	Class C airspace.
§ 71.15	Positive control areas.	§ 71.31	Class A airspace.
§ 71.17	Reporting points.	§ 71.5	Reporting Points.
§ 71.19	Bearings; Radials; Miles.	§ 71.7	Bearings, radials, mileages.
	Subpart B—Colored Federal Airways		***Subpart E—Class E Airspace***
§ 71.101	Designation.	Subpart E of FAA Order 7400.9.	
§ 71.103	Green Federal airways.	Subpart E of FAA Order 7400.9.	
§ 71.105	Amber Federal airways.	Subpart E of FAA Order 7400.9.	
§ 71.107	Red Federal airways.	Subpart E of FAA Order 7400.9.	
§ 71.109	Blue Federal airways.	Subpart E of FAA Order 7400.9.	
	Subpart C—VOR Federal Airways		***Subpart E—Class E Airspace***
§ 71.121	Designation.	§ 71.79	Designation of VOR Federal airways.
§ 71.123	Domestic VOR Federal airways.	Subpart E of FAA Order 7400.9.	
§ 71.125	Alaskan VOR Federal airways.	Subpart E of FAA Order 7400.9.	
§ 71.127	Hawaiian VOR Federal airways.	Subpart E of FAA Order 7400.9.	
	Subpart D—Continental Control Area		***Subpart E—Class E Airspace***
§ 71.151	Restricted areas included.	Subpart E of FAA Order 7400.9.	
	Subpart E—Control Areas and Control Area Extensions		***Subpart E—Class E Airspace***
§ 71.161	Designation of control areas associated with jet routes outside the continental control area.	§ 71.71	Class E airspace and Subpart E of FAA Order 7400.9.
§ 71.163	Designation of additional control areas.	§ 71.71	Class E airspace and Subpart E of FAA Order 7400.9.
§ 71.165	Designation of control areas extensions.	Subpart E of FAA Order 7400.9.	
	Subpart F—Control Zones		***Subpart D—Class D Airspace***
			Subpart E—Class E Airspace
§ 71.171	Designation.	Subpart D of FAA Order 7400.9.	

	Subpart I—Reporting Points	***Subpart H—Reporting Points***
§ 71.201	Designation.	§ 71.901 Applicability.
§ 71.203	Domestic low altitude reporting points.	Subpart H of FAA Order 7400.9.
§ 71.207	Domestic high altitude reporting points.	Subpart H of FAA Order 7400.9.
§ 71.209	Other domestic reporting points.	Subpart H of FAA Order 7400.9.
§ 71.211	Alaskan low altitude reporting points.	Subpart H of FAA Order 7400.9.
§ 71.213	Alaskan high altitude reporting points.	Subpart H of FAA Order 7400.9.
§ 71.215	Hawaiian reporting points.	Subpart H of FAA Order 7400.9.
	Subpart J—Area Low Routes	***Subpart E—Class E Airspace***
§ 71.301	Designation.	Subpart E of FAA Order 7400.9.
	Subpart K—Terminal Control Areas	***Subpart B—Class B Airspace***
§ 71.401(a)	Designation.	Subpart B of FAA Order 7400.9.
§ 71.401(b)	Terminal control areas.	Subpart B of FAA Order 7400.9.
	Subpart L—Airport Radar Service Areas	***Subpart C—Class C Airspace***
§ 71.501	Designation.	Subpart C of FAA Order 7400.9.
	Subpart M—Jet Routes and Area High Routes	***Subpart A—General; Class A Airspace***
§ 71.601	Applicability.	Not applicable.
§ 71.603	Jet routes.	Subpart A of FAA Order 7400.9.
§ 71.605	Area routes above 18,000 feet MSL.	Subpart A of FAA Order 7400.9.
§ 71.607	Jet route descriptions.	Subpart A of FAA Order 7400.9.
§ 71.609	Area high route descriptions.	Subpart A of FAA Order 7400.9.

Discussion of Comments

A total of 205 commenters submitted comments to Docket No. 24456 on NPRM No. 89–28. The FAA considered these comments in the adoption of this rule and changes to the proposals were made accordingly. Some comments did not specifically apply to any particular proposal addressed in NPRM No. 89–28. These comments related to the requirements for a transponder with Mode C capabilities, the FAA's anti-drug program, and the proposed TCA for the Washington-Baltimore metropolitan area.

Comments submitted on NPRM No. 89–28 reflect the views of a broad spectrum of the aviation public. The commenters included individuals as well as organizations representing commercial and general aviation pilots. Organizations that commented on NPRM No. 89-28 include: AOPA, ALPA, Air Traffic

standards were submitted. Sixty-eight supported reclassification and 69 opposed reclassification. Four commenters neither supported nor opposed the reclassification effort, but offered observations.

The 68 supporting comments include those submitted by the ATA, ATCA, and COPA. The COPA stated that on an average, approximately 60,000 general aviation aircraft cross the U.S./Canadian border each year. Some commenters stated that the proposed classifications are easier to understand than the current classifications and noted that the proposed classifications would help develop standardization. Two flight instructors commented that the proposed classifications would aid in the teaching of the airspace system to new pilots.

The 69 opposing comments include the Arizona Pilots Association, EAA, and SSA. Several comments, including EAA's, asserted that the current airspace designation names are more descriptive, and hence, easier to remember. Several comments, including one from the Arizona Pilots Association, stated that the proposal would cause confusion, while other commenters alleged that the proposal would only benefit pilots who operate internationally.

Both the SSA and the Arizona Pilots Association recommend that existing airspace nomenclature be retained and a table be included in the *Airman's Information Manual* (AIM) or Part 91 to correlate U.S. airspace designations and ICAO equivalents.

The four comments submitted that do not directly support or oppose the proposal include those from the Alaska Airmen's Association, ALPA, and AOPA. The AOPA expressed concerns about how pilots would be reeducated during the transition phase that would precede the adoption of the proposed airspace reclassification. AOPA recommended that the FAA take five steps to ensure proper pilot education: (1) convene a government, industry, and user meeting before the issuance of a final rule to consider the implications of final rule adoption; (2) ensure that all necessary funding is in place, including monies for the specific purpose of pilot education; (3) adopt a dual airspace system during the transition phase; (4) coordinate with the National Oceanic and Atmospheric Administration (NOAA) to ensure that all charts are printed in a timely manner; and (5) amend the flight review requirements to reflect explicitly the need to discuss airspace classifications. The FAA agrees that the aviation public needs to be educated in airspace reclassification. Therefore, the FAA has developed an education and transition program, which is discussed under "Education of the Aviation Community."

As proposed, the FAA will reclassify U.S. airspace in accordance with ICAO standards. Airspace areas, with the exception of special use airspace (SUA) designations, will be classified by a single alphabet character. The FAA believes that reclassification of U.S. airspace simplifies the airspace system, achieves international commonality, enhances aviation safety, and satisfies the responsibility of the United States as a member of ICAO.

Some commenters misunderstood the proposal on airspace reclassification. These commenters understood Class A airspace areas to be en route airspace and Class B, Class C, and Class D airspace areas to be terminal airspace. The recommended ICAO airspace classes are not based on whether the airspace area is designated for "en route" or "terminal" operations, but rather on other factors that include type of operation (i.e., IFR, VFR) and ATC services provided. (The table below lists the new airspace classifications, its equivalent in the existing airspace classification, and its features, which would apply to terminal and en route airspace areas.) For example, under this rule Class C airspace is designated in terminal areas. Class C airspace in another country could be designated in en route areas. However, the type of operation, ATC services provided, minimum pilot qualifications, two-way radio requirements, and VFR minimum visibility and distance from cloud requirements in that country's Class C airspace will be similar to the Class C airspace areas designated in the United States. As adopted by the FAA, Class A airspace areas are designated in positive control en route areas; Class B, Class C, and Class D airspace areas are designated in terminal areas; and Class E airspace areas are designated in both en route (low altitude) and terminal areas. However, the rules are written in a manner that the classes of airspace will not be limited to terminal or en route airspace areas. For example, if a regulation

Operations Permitted	IFR	IFR and VRF	IFR and VFR	IFR and VFR	IFR and VFR	IFR and VFR
Entry Prerequisites	ATC clearance	ATC clearance	ATC clearance for IFR Radio contact for all	ATC clearance for IFR Radio contact for all	ATC clearance for IFR Radio contact for all IFR	None
Minimum Pilot Qualifications	Instrument rating	Private or student certificate	Student certificate	Student certificate	Student certificate	Student certificate
Two-way radio communications	Yes	Yes	Yes	Yes	Yes for IFR operations	No
VFR Minimum Visibility	Not applicable	3 statute miles	3 statute miles	3 statute miles	*3 statute miles	**1 statute mile
VFR Minimum Distance from Clouds	Not applicable	Clear of clouds	500 feet below, 1,000 feet above, and 2,000 feet horizontal	500 feet below, 1,000 feet above, and 2,000 feet horizontal	*500 feet below, 1,000 feet above, and 2,000 feet horizontal	**500 feet below, 1,000 feet above, and 2,000 feet horizontal
Aircraft Separation	All	All	IFR, SVFR, and runway operations	IFR, SVFR and runway operations	IFR, SVFR	None
Conflict Resolution	Not applicable	Not applicable	Between IFR and VFR operations	No	No	No
Traffic Advisories	Not applicable	Not applicable	Yes	Workload permitting	Workload permitting	Workload permitting
Safety Advisories	Yes	Yes	Yes	Yes	Yes	Yes

*Different visibility minimum and distance from cloud requirements exist for operations above 10,000 feet MSL.

**Different visibility minima and distance from cloud requirements exist for night operations, operations above 10,000 feet MSL, and operations below 1,200 feet AGL.

Offshore Airspace

The FAA adopts, as proposed, the NAR recommendations NAR 3–2.1.1—Offshore Airspace Nomenclature, NAR 3–2.1.2—Offshore Control Area Uniform Base, NAR 3–2.1.3—Offshore Control Area Identification, and NAR 3–2.1.4—Offshore Airspace Classification, which consider offshore airspace areas. However, NAR 3–2.1.2, which recommends a uniform base for offshore control areas of 1,200 feet above the surface unless otherwise designated, and NAR 3-2.1.3, which recommends that offshore control areas be identified with a name as opposed to a number are contingent on the FAA's further review. (More details on the review process appear later in this document under the title *Implementation of Airspace Reclassification.*) Any changes to offshore airspace areas resulting from the FAA's review will be accomplished by separate rulemaking actions. The FAA's review is being conducted in compliance with Executive Order 10854, which requires FAA consultation with both the Departments of State and Defense before designating controlled international airspace. The FAA expects that most offshore airspace areas will be classified as Class E or Class A airspace areas.

AIRSPACE RECLASSIFICATION TRANSITION

Tentative Date	*Event*
October 15, 1992	First sectional aeronautical charts (SAC), world aeronautical charts (WAC), and terminal aeronautical charts (TAC) are published with legends that indicate both existing and future airspace classifications.
March 4, 1993	Initial charting changes are completed for the SAC and TAC.
June 24, 1993	North Pacific, Gulf of Mexico, and Caribbean planning charts are published with legends that indicate both existing and future airspace classifications.
August 19, 1993	Flight Case Planning and North Atlantic Route charts are published with legends that indicate existing and future airspace classifications.
September 16, 1993	New airspace classifications become effective. All charts begin publication with legends that indicate both the new airspace classification and the former airspace classification. All related publications are updated.
March 3, 1994	First charts are published with legends that only indicate the new airspace classifications.
August 17, 1994	All charts are published with legends that only indicate the new airspace classifications.

Coordination with a task group of the IACC and the NOS will continue throughout the transition. An anticipated modification to the symbols on aeronautical charts is the addition of a segmented magenta line to represent the controlled airspace area for airports without operating control towers that extends upward from the surface (Class E airspace). A segmented blue line (which currently depicts a control zone) will denote a Class D airspace area, the controlled airspace for airports with operating control towers that are not the primary airport of a TCA or an ARSA.

The legends in aeronautical charts will include both the existing airspace classifications and the airspace classifications to be effective September 16, 1993. For example, the solid blue line that symbolizes a TCA will be followed by "TCA (Class B)." The first charts with a dual legend will be published October 15, 1992. Commencing September 16, 1993, the legends on these charts will be reversed [e.g., a solid blue line will be followed by "Class B (TCA)"]. Between March 3 and August 17, 1994, the use of dual indication legends will be phased out.

Between October 1992 and March 1993, educational materials such as pocket guides, a video, and posters will be issued to instruct the aviation public on airspace reclassification. The FAA will begin to update the AIM and other publications, as well as FAA orders, manuals, handbooks, and advisory circulars that must be revised to include the new airspace classifications and an explanation of the transition and implementation procedures.

The transition and implementation of the Airspace Reclassification final rule also will include parallel reviews of certain current airspace designations to meet the new airspace classifications. A full discussion on this review appears later in this document under the title *Implementation of Airspace Reclassification.*

Class A Airspace

NPRM No. 89–28 proposed to reclassify the PCAs as Class A airspace areas with no other alterations to this airspace. Four commenters, including AOPA, neither supported nor opposed this classification; however, they offered comments and modifications. Some commenters stated that if the FAA adopts

Class B Airspace

NPRM No. 89–28 proposed to reclassify TCAs as Class B airspace areas and to amend the minimum distances by which aircraft operating under VFR must remain from clouds. The current VFR minimum distance requirements of 500 feet below, 1,000 feet above, and 2,000 feet horizontal from clouds will be amended to require that the pilot must remain clear of clouds.

One comment supports and two comments specifically oppose the proposed reclassification. Twelve comments on the proposal to amend minimum distance from clouds for VFR operations in Class B airspace areas were received. Eight of these comments support and four oppose the proposal.

The comments submitted in support of the proposal to reclassify TCAs as Class B airspace areas and to modify the minimum distances from cloud for VFR operations include those from AOPA, the Alaska Airmen's Association, EAA, and SSA. AOPA stated that the proposal "is a positive step in improvement of VFR traffic flow within" Class B airspace areas.

A commenter in support of reclassification stated that some of the areas to be classified as Class B airspace areas could be redesignated as Class C airspace areas.

The four comments submitted in opposition to the proposed amendment on distance from cloud requirements for VFR operations include a comment from ALPA. Some commenters stated that the proposal to modify the minimum distance from clouds for VFR flight in Class B airspace areas reduces the existing margin of safety. ALPA further stated that the ability of a pilot to maintain visual contact with other aircraft is reduced if aircraft operate in close proximity to clouds. One commenter stated that the proposals do not answer the need for clear radio failure procedures in Class B airspace areas. Another commenter stated that Class B airspace areas are actually divided into two types of Class B airspace: one in which a private pilot certificate is required and one in which, at a minimum, only a student pilot certificate is required.

This rulemaking reclassifies existing airspace areas with the equivalent recommended ICAO airspace area. It does not redesignate existing airspace areas. For example, the redesignation of a Class B airspace area (TCA) to a Class C airspace area (ARSA) is beyond the scope of this rulemaking. The FAA believes that the elimination of terminal areas designated as Class B airspace areas would create a substantial adverse impact on the safe and efficient control of air traffic in those high volume terminal areas. Class B airspace areas, like the TCAs that preceded them, provide more efficient control in terminal areas where there is a large volume of air traffic and where a high percentage of that traffic is large turbine-powered aircraft. Additionally, on July 25, 1991, the FAA revised FAA Order 7110.65, *Air Traffic Control*, by adopting specific separation standards for operations under VFR in existing TCAs. These standards require air traffic controllers to separate aircraft operating under VFR in existing TCAs from other aircraft operating under VFR and IFR.

As stated in NPRM No. 89–28 in response to NAR 1–7.2.9—Recommended VFR Minima, the FAA views the relaxation of the distance from cloud requirements for VFR operations as a modification that would enhance rather than reduce safety. Under the existing regulations, a pilot operating an aircraft under VFR in a TCA (Class B airspace) is provided with ATC services and is subject to ATC clearances and instructions. For the pilot operating under VFR to remain specific distances from clouds, the pilot must alter course or assigned heading/route, which is a disruption to traffic flow and could be a compromise to safety. The amendment will increase safety for pilots operating under VFR and ATC by permitting these pilots to remain clear of clouds in Class B airspace areas, but not requiring them to remain a specific distance from clouds. However, if an ATC instruction to a pilot operating an aircraft under VFR could place that aircraft in a cloud, FAR § 91.3, *Responsibility and authority of the pilot in command,* requires the pilot in command to be responsible for ensuring that the aircraft does not enter a cloud and any such ATC instruction may be refused.

of the existing requirements; hence, the reclassification of TCAs as Class B airspace areas meets existing regulations on minimum airman certificate levels. Section 61.95 of the FAR, which lists student pilot requirements for operations in a TCA (Class B airspace), is revised to meet the new airspace classification. Solo student pilot activity is, under both the existing regulations and this final rule, prohibited at certain airports.

Class C Airspace

Three comments were submitted on the reclassification of ARSAs as Class C airspace areas. None of the comments specifically support or oppose the reclassification. All of the comments, including one from EAA, addressed additional modifications.

Two commenters noted that the proposal for VFR operations in Class B airspace areas to remain clear of clouds could be applied to Class C airspace areas.

In its comment, EAA opposed any increase in the size of Class C airspace areas. Other recommendations by commenters included the need for clear radio failure procedures and the need for designated areas that do not require communications with ATC when the pilot desires to use an uncontrolled airport within Class C airspace areas.

As proposed, the FAA will reclassify ARSAs as Class C airspace areas. No other modifications to Class C airspace areas or changes in operating rules were proposed. An ARSA that currently operates on a part-time basis is classified as Class C part-time and Class D or Class E at other times.

Aircraft operating under VFR in Class C airspace areas operate under less stringent requirements than aircraft operating under VFR in Class B airspace areas and are not provided the same separation by ATC. Therefore, the relaxation of the VFR distance from cloud requirements in Class C airspace areas to remain clear of clouds would not be in accordance with safety precautions. As noted earlier, lost communication procedures are addressed in paragraph 470, Two-way Radio Communications Failure, of the AIM. Since Class C airspace areas often have a high number of aircraft that operate under IFR, a relaxation of existing communications requirements would not be in the interest of safety. Any modifications to the dimensions or operating requirements for Class C airspace areas are outside the scope of this rulemaking.

Class D Airspace

NPRM No. 89–28 proposed to reclassify control zones for airports with operating control towers and airport traffic areas, not associated with a TCA or an ARSA, as Class D airspace areas. In addition, NPRM No. 89–28 proposed to: (1) raise the ceiling to up to, and including, 4,000 feet from the surface of the airport; (2) require aircraft in Class D airspace areas to establish two-way radio communications with ATC; and (3) convert the lateral unit of measurement from statute miles to nautical miles.

One hundred and forty comments concerning the proposal to establish the ceiling of the Class D airspace areas at 4,000 feet above the surface were submitted. All of the comments opposed the proposal.

Of the 83 comments regarding the proposal to require pilots who operate in Class D airspace areas to establish two-way radio communications with ATC, two supported the proposal and 80 opposed it. One comment neither supported nor opposed the proposals.

One hundred and forty-three comments related to the proposal to convert the lateral unit of measurement of Class D airspace areas from statute to nautical miles were submitted. Most interpreted the proposal to mean that the lateral size of the airspace areas would change from 5 statute miles to 5 nautical miles. (The FAA's intent in NPRM No. 89–28 is to convert statute miles as a unit of measurement to the equivalent in nautical miles.) Twelve comments supported and 131 comments opposed the proposal.

The 140 commenters that opposed the proposed ceiling of 4,000 feet above the surface included AOPA, the Alaska Airmen's Association, the Arizona Pilots Association, EAA, the Ohio Department of Transportation, and SSA. These same organizations are represented in the 131 comments that opposed the proposed conversion from statute to nautical miles and the 80 comments that oppose the proposed two-way radio communications requirements with ATC.

Several comments, including one from EAA, were submitted on the effects of the proposed ceiling modification and communications requirements on operations under SFAR No. 51–1—Special Flight Rules in the Vicinity of Los Angeles International Airport. According to the comments, the proposal would raise the ceiling of the airport traffic areas at Santa Monica and Hawthorne Airports into the Special Flight Rules Area. The commenters also stated that the proposed two-way radio communication requirements with ATC may not allow aircraft, especially those with one radio, to listen to an advisory frequency.

Some commenters, including SSA, stated that airport traffic areas (Class D airspace) could be depicted on aeronautical charts. Several commenters, including AOPA, the Alaska Airmen's Association, EAA, and the Ohio Department of Transportation stated that the proposals would increase air traffic controller workload. Some comments, including one from AOPA, stated that the proposal would increase pilot workload or that no safety benefit exists for the proposed modifications.

Several commenters, including AOPA and EAA, requested that the ceiling of Class D airspace areas be lowered to 2,000 feet or 2,500 feet above the surface. The commenters stated that the lower altitudes are adequate for the arrival and departure of aircraft. Other commenters, including the Alaska Airmen's Association and SSA, recommended retaining the current ceiling of 3,000 feet above the surface.

Commenters stated that the proposals for modifying the size of airspace and for requiring two-way radio communications with ATC would be a burden to aircraft that fly at low altitudes, and that some aircraft would need to fly a minimum of 5,500 feet MSL as opposed to 3,500 feet MSL. Some commenters stated that the proposal would burden pilots of airplanes that do not have radios. One commenter noted that pilots who fly older aircraft with no radios or navigational aids do not pose a threat to commercial aviation.

Several comments, including those submitted by the AOPA and the Alaska Airmen's Association, stated that the proposal for two-way radio communications with ATC would not permit aircraft to listen to the common traffic advisory frequency (CTAF) of satellite airports. Additional comments, including those submitted by the AOPA and EAA, noted that air traffic controllers in control towers cannot provide effective traffic advisories for satellite airports. Some commenters, including EAA and the Ohio Department of Transportation, stated that the proposed two-way radio communication requirements with ATC are not necessary because operations at satellite airports usually do not interfere with airports with operating control towers. Another commenter noted that a pilot who desires to use a satellite airport and needs to fly near an airport with an operating control tower would need to notify the local ATC facility.

Commenters, including the Arizona Pilots Association and EAA, recommended that the lateral unit of measurement of Class D airspace areas be designated at 4 nautical miles.

As proposed, control zones for airports with operating control towers and airport traffic areas that are not associated with a TCA or an ARSA are reclassified as Class D airspace areas. After considering public comment and re-examining technical criteria, the FAA has determined that: (1) the ceiling of a Class D airspace area (designated for an airport) will normally be designated at 2,500 feet above the surface of the airport converted to mean sea level (MSL), and rounded to the nearest 100 foot increment; (2) two-way radio communications with ATC will be required; and (3) the lateral dimensions will be expressed in nautical miles rounded up to the nearest tenth of a mile. The actual lateral and vertical dimensions will be determined on an individual basis using revised criteria in FAA Order 7400.2C, *Procedures for Handling Airspace Matters*. (More detail on the review of airspace appears under the title *Implementation of Airspace Reclassification*.)

A goal of airspace reclassification is to enhance safety. The FAA is of the opinion that the existing airspace designations of an ARSA, which has a ceiling of "up to and including" 4,000 feet above the surface, and an airport traffic area, which has a ceiling of "up to, but not including," 3,000 feet above the surface, has caused confusion, which does not enhance safety. To promote uniformity, the FAA in NPRM No. 89–28 proposed that the ceiling of Class C, Class D, and Class E airspace areas that extend upward from the surface be established at "up to, and including" 4,000 feet above the surface. Many of the comments on this proposal were opposed to this modification. As previously stated, the FAA has determined that the ceiling of Class D airspace areas will normally be designated at up to, and including, 2,500 feet above the surface of the airport expressed in MSL. To further enhance uniformity, the ceiling of Class E airspace areas that extend upward from the surface normally will also have a ceiling established at up to, and including, 2,500 feet above the surface of the airport expressed in MSL. A ceiling of 2,500 feet above the surface will provide adequate vertical airspace to protect traffic patterns. However, the FAA emphasizes that the ceiling of a Class D or a Class E airspace area will reflect the conditions of the particular airspace area. For example, if local conditions warrant, the ceiling could be designated at more than 2,500 feet above the surface (e.g., 2,700 or 3,000 feet above the surface). Conversely, some airports with limited volume of nonturbine-powered aircraft may have a lower vertical limit.

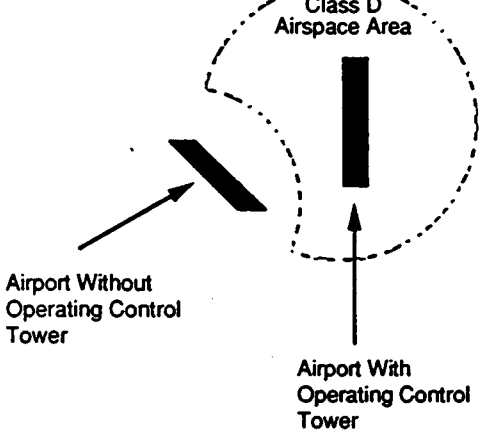
The decision to use 2,500 feet above the surface is based on recent FAA analysis of vertical airspace necessary to protect traffic patterns and a review of public comment to lower the ceiling of an airport traffic area. The FAA's analysis demonstrates that the 2000-foot vertical limit is insufficient since it often does not protect traffic patterns for high performance aircraft.

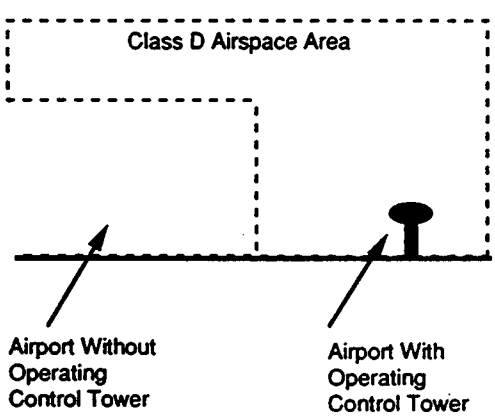
Two-Way Radio Communications in and Lateral Dimensions of Class D Airspace Areas

The FAA has determined that in order to meet safety standards, two-way radio communications with ATC must be established in Class D airspace areas. Task Group 1–2.3, which recommended NAR 1–2.3.2—Two-Way Radio Requirements in Airport Traffic Areas, stated that "pilots have been issued violations, or critical injuries have occurred because pilots were not in compliance with the two-way radio communications requirements."

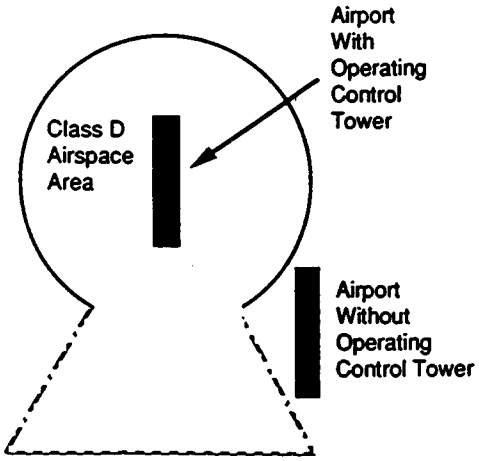
The FAA also has determined that the lateral distance of Class D airspace areas will be based on the instrument procedures for which the controlled airspace is established. Therefore, the dimensions may not be in a circular shape that is similar to the current airport traffic areas or control zones.

Many commenters stated that the communications requirements associated with operations at satellite airports within Class D airspace areas would prevent them from using CTAF procedures. The FAA generally agrees with these comments; consequently, the FAA will individually review control zones and associated transition areas that are not associated with the primary airport of a TCA or an ARSA. The review of the designation of Class D airspace areas will be conducted to determine the necessary size of the area and will exclude satellite airports to the maximum extent practicable and consistent with safety. For example, a satellite airport without an operating control tower might have a Class E airspace area carved out of a Class D airspace area, or a Class E airspace area might be placed under a shelf of a Class D airspace area. (See Figure 1.) In another example, the portions of an existing control zone that extend beyond the existing limits of an airport traffic area (extension used for instrument approaches) may be designated only by using the airspace necessary under the terminal instrument procedures (TERPs) criteria. (See Figure 1.) When a satellite airport is excluded, a pilot who is operating an aircraft in the immediate vicinity of that satellite airport and who does not otherwise penetrate airspace where two-way radio communications with ATC are required will be free to communicate on the CTAF of that satellite airport.

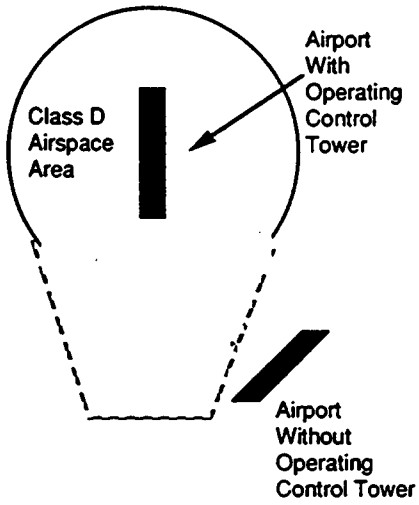




TERPS' Trapezoid Going Toward the NAVAID



TERPS' Trapezoid Going Away from the NAVAID



One commenter noted that the current names are descriptions of how the airspace area is to be used (i.e., transition areas, airways) and that under the proposal, airways would still be necessary. The SSA recommended the continued use of the term "control zone" for airspace extending upward from the surface that is independent of Class B, Class C, or Class D airspace areas. They also recommended that control zones should extend to the floor of overlying controlled airspace. One commenter recommended that the floor of Class E airspace areas that are now 1,200 feet above ground level (AGL) be raised to 1,500 or 2,200 feet AGL and noted that the floor of Class E airspace areas should not be below the minimum en route IFR altitude (MEA) in mountainous regions.

The FAA will adopt the classification of Class E airspace areas as proposed. This classification will not eliminate the requirement for Federal airways, which are specified in Part 71. However, this classification will eliminate the designation of control zones. Control zones for airports without operating control towers are classified as Class E airspace areas designated for an airport that extend upward from the surface.

The FAA believes that the reclassification of control zones for airports without operating control towers as Class E airspace areas will not cause confusion. As noted earlier, such airspace areas will be depicted on visual aeronautical charts by a segmented magenta line. Under existing regulations, a control zone usually has a 5-statute mile radius and ascends to the base of the Continental Control Area. The FAA's review process, using the revised criteria in FAA Order 7400.2C, will look at the dimensions of each control zone and associated transition areas. Each review will include a review of instrument approach procedures, as well as local terrain to determine the actual airspace needed to contain IFR operations.

The floor of Class E airspace areas, which do not extend upward from the surface, will remain the same as existing airspace areas (e.g., 700 feet AGL, 1,200 feet AGL, 1,500 feet AGL, 14,500 feet MSL). Any modifications to the floor of Class E airspace areas are beyond the scope of this rulemaking.

Class G Airspace

NPRM No. 89–28 proposed to reclassify airspace that is not otherwise designated as the Continental Control Area, a control area, a control zone, a terminal control area, a transition area, or SUA as Class G airspace areas. Of the six comments submitted, four comments opposed the proposal and two offered suggestions.

The four opposing comments, including EAA's comment, understood the Class G airspace areas to be airspace below 700 feet AGL.

The two comments that neither supported nor opposed the proposal included the comment from the ATA. The ATA recommended that Class G airspace areas be designated as Class F airspace areas.

The FAA has determined that all navigable airspace areas not otherwise designated as Class A, Class B, Class C, Class D, or Class E airspace areas or SUA are classified as Class G airspace areas. Since the proposal to replace the Continental Control Area with the U.S. control area in NPRM No. 88–2 was not adopted, the vertical limit of Class G airspace areas will vary (e.g., 700 feet AGL, 1,200 feet AGL, 1,500 feet AGL, 14,500 feet MSL). In addition, the flight visibility and distance from cloud requirements for operations under VFR proposed in NPRM No. 89–28 are modified to remain consistent with the existing requirements in §§ 91.155 and 103.23.

Class F airspace is omitted from the U.S. airspace classifications because this airspace, as adopted by ICAO, does not have a U.S. equivalent. Class G airspace, as adopted by ICAO, is the equivalent of U.S. uncontrolled airspace.

Three commenters, including the Alaska Airmen's Association and SSA, noted that NPRM No. 89–28 proposed to define controlled airspace in FAR § 1.1 as airspace in which "all aircraft may be subject to ATC" rather than airspace in which "some or all aircraft may be subject to ATC." According to one commenter, because aircraft operating under VFR are not always subject to ATC in controlled airspace, especially Class E airspace, the current definition is more accurate.

The proposed definition of controlled airspace is adopted in essence but it has been modified to correspond with ICAO's definition of a controlled airspace. Subsequent to the publication of NPRM No. 89–28, ICAO modified its definition of controlled airspace to read as follows: "*Controlled airspace.* An airspace of defined dimensions within which air traffic control service is provided to IFR flights and to VFR flights in accordance with the airspace classification. Note—Controlled airspace is a generic term which covers ATS [air traffic services] in airspace Classes A, B, C, D, and E." The proposed FAA definition in NPRM No. 89–28 read: "*Controlled airspace* means airspace designated as Class A, Class B, Class C, Class D, or Class E airspace in Part 71 of this chapter and within which all aircraft may be subject to air traffic control."

While the commenter is essentially correct that all aircraft are not always subject to air traffic control, any aircraft may be subject to ATC if the pilot operates under IFR or if the pilot requests and receives air traffic services. The FAA believes that misunderstandings would be minimized with the adoption of the ICAO definition. The ICAO definition and the proposed definition are essentially synonymous; however, the FAA is confident the adoption of the ICAO definition is consistent with the objectives of airspace reclassification and that it is beneficial to have a common international definition of controlled airspace.

Four commenters, including EAA and SSA, noted that NPRM No. 89–28 only permits Special VFR operations for the purposes of departing from or arriving at an airport. The commenters stated that such a restriction of Special VFR operations would affect pipeline patrol, aerial photography, law enforcement, agricultural, and other special types of operations. EAA also stated that the proposed limitation of 4,000 feet above the surface for Special VFR operations could prevent pilots from climbing to the top of a haze layer.

The FAA will continue to permit Special VFR operations for through flights as well as flights for arrival or departure. Because control zones will be eliminated under Airspace Reclassification, Special VFR operations are only permitted within the ceiling and lateral boundaries of the surface areas of the Class B, Class C, Class D, or Class E airspace designated for an airport. Because the proposal for a uniform ceiling for Class C, Class D, and Class E airspace areas at 4,000 feet above the surface is not adopted, the boundaries of the airspace area in which Special VFR operations are permitted will vary. For example, if a Class C airspace area has a ceiling designated at 4,500 feet MSL and a surface area designated within a 5-nautical mile radius from the airport, Special VFR operations are permitted within that 5-nautical mile radius up to and including 4,500 feet MSL.

One commenter, a flight instructor with a petition signed by additional flight instructors, stated that the language in the proposal on aerobatic flight is vague and could be interpreted to restrict aerobatic operations within existing transition areas and other less crowded airspace areas. The commenter was concerned that the proposed § 91.71(c) could affect spin training at flight schools.

Under this amendment, the term "control zone" will be eliminated. However, the FAA desires to continue restrictions that currently exist in the FAR on operations within control zones. These restrictions will now apply within the lateral boundaries of the surface areas of the Class B, Class C, Class D, or Class E airspace designated for an airport. For example, if a Class E airspace area is designated to extend upward from the surface with a 4.4-nautical mile radius from the airport and a ceiling of 2,600 feet MSL, aerobatic flight will not be permitted below 2,600 feet MSL within a 4.4-nautical mile radius of the airport.

revised criteria are written in existing airspace terminology. Examples of the revised criteria include: (1) converting the lateral unit of measurement from statute miles to nautical miles; (2) conforming existing control zones to be congruent with the lateral dimensions of the surface areas of existing TCAs or ARSAs; (3) redesignating control zones to contain intended operations (not necessarily in a circular configuration); (4) redesignating the vertical limit of control zones from the surface of the earth to a specified altitude (but not to the base of the Continental Control Area); (5) establishing a policy to exclude satellite airports from control zones to the maximum extent practicable, consistent with instrument procedures and safety; and (6) replacing control zone departure extensions with transition areas.

The FAA anticipates that many control zones and associated transition areas would require minor modification. For example, a control zone could be integrated with the associated TCA or ARSA (Class B or Class C airspace area) or a control zone could become either a Class D airspace area or a Class E airspace area that extends upward from the surface.

The reviews will include control zones where a significant change in the current airspace structure is expected. For example, a control zone that extends beyond the perimeter of the associated TCA or ARSA and could require modification of the associated TCA or ARSA (Class B or Class C airspace area). The reviews will also include transition areas not associated with control zones and offshore airspace. Proposed changes that result from these reviews will be promulgated using normal rulemaking procedures.

The reviews could also result in the expansion of controlled airspace. These actions could affect airspace areas associated with non-Federal control towers. Any expansion of controlled airspace will be proposed in future NPRMs.

All necessary changes to the airspace structures are scheduled to be completed by September 16, 1993, the effective date of the Airspace Reclassification final rule.

Changes to the NPRM

This final rule includes several nonsubstantive editorial changes made to NPRM No. 89–28. Changes are also included in this final rule to certain FAR sections that were not included in NPRM No. 89–28 but require changes in terminology to be consistent with the amendments. Three additional subparts in Part 93 are deleted because the rules will not be necessary under airspace reclassification. The sections and subparts, with an explanation of the changes made to them, follow.

SFAR 51–1: The reference to "Terminal Control Area (TCA)" in Section 1 is replaced with "Class B airspace area." The reference to § 91.105(a) in Section 2(a) is replaced with § 91.155(a). The reference to § 91.24(b) in Section 2(b) is replaced with § 91.215(b). The phrase "meet the equipment requirements" in Section 2(b) is replaced with "be equipped as." The reference to § 91.90(a) and § 91.90 in Section 3 is replaced with § 91.131(a) and § 91.131.

SFAR 60: The references to "terminal control area" and "airport radar service area" in Section 3a are replaced with "Class B airspace area" and "Class C airspace area." The phrase "terminal and en route airspace" in Section 3a is replaced with "class of controlled airspace."

SFAR 62: The two references to "terminal control area" in Section 1(a) are replaced with "Class B airspace area." The references to the "Tri-Area TCA" in Section 2(24) and (25) are replaced with "Tri-Area Class B airspace area."

§ 45.22(a)(3)(i): The phrase "the designated airport control zone of the takeoff airport, or within 5 miles of that airport if it has no designated control zone" is replaced with "the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for the takeoff airport, or within 4.4 nautical miles of that airport if it is within Class G airspace."

§ 61.95: All references to "terminal control area" in the title and paragraphs (a), (a)(1), (a)(2), (a)(3), and (b) are replaced with "Class B airspace" or "Class B airspace area."

titles to become effective September 16, 1993, and a reference is added to § 91.126.

§ 93.1(b): The reference to § 93.113, which is to be deleted as of September 16, 1993, is deleted.

Subpart N, Part 93: This subpart on the airport traffic area at the Sabre U.S. Army Heliport (Tennessee) is removed and reserved. On September 16, 1993, this airspace will become a Class D airspace area.

Subpart O, Part 93: This subpart on the Navy airport traffic area at Jacksonville, Florida, is removed and reserved. On September 16, 1993, this airspace will become three separate but adjoining Class D airspace areas.

Subpart R, Part 93: This subpart on the Special Air Traffic Rules at El Toro, California, is removed and reserved. On September 16, 1993, this airspace will become a part of the El Toro Class C airspace area.

§ 135.205(b): The reference to "uncontrolled airspace" is replaced with "Class G airspace." The reference to "control zones" is replaced with "within the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for an airport."

§ 139.323(a): The reference to "terminal control area" is replaced with "Class B airspace area."

§ 171.9(e)(1) and (e)(2): All references to "air traffic control areas" are replaced with "controlled airspace."

§ 171.29(d)(1) and (d)(2): All references to "air traffic control areas" are replaced with "controlled airspace."

§ 171.159(e)(1) and (e)(2): Both references to "air traffic control areas" are replaced with "controlled airspace." The reference to "air traffic control zones or areas" is replaced with "controlled airspace."

§ 171.209(d): Both references to "air traffic control areas" are replaced with "controlled airspace." The reference to "air traffic control zones or areas" is replaced with "controlled airspace."

§ 171.323(i): The reference to "air traffic control areas" is replaced with "controlled airspace." The reference to "air traffic control zones or areas" is replaced with "controlled airspace."

Obsolete Dates

Obsolete dates have been removed from §§ 91.215(b)(2), (b)(4), and (b)(5)(ii). Section 91.215(b)(5)(i)(A) is obsolete and is deleted. Section 91.215(b)(5)(i)(B) is incorporated into existing § 91.215(b)(5)(i).

Regulatory Evaluation Summary

This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this final rule regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all major rules except those responding to emergency situations or other narrowly defined exigencies. A major rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or one that is highly controversial.

The FAA has determined that this rule is not major as defined in the executive order. Therefore, a full regulatory *analysis*, that includes the identification and evaluation of cost reducing alternatives

as well as certain other requirements associated with each proposed airspace designation. These changes are based primarily on recommendations from a National Airspace Review (NAR) task group and will ultimately allow for increased safety and efficiency in the U.S. airspace and air traffic control system.

Costs

The FAA estimates the total incremental cost that will accrue from the implementation of this final rule to be $1.9 million (discounted, in 1990 dollars). Virtually all cost, which is expected to be incurred by the FAA, will accrue from revisions to aeronautical charts, re-education of the pilot community, and revision of air traffic controller training courses. Each one of these factors is briefly discussed below:

1. Revisions to Aeronautical Charts

A significant cost impact associated with this rule will result from the requirement to change aeronautical charts. These modifications will be incorporated during the regular updating and printing of the charts. Therefore, all costs associated with printing aeronautical charts are assumed to be normal costs of doing business. However, because of dimension and symbol changes that will be needed, the plates used to print the charts will need to be changed, and this will affect most of the aeronautical charts printed.

The total cost of revisions to all charts is estimated by the National Ocean Service based on the summation of the costs of revising each class of the airspace. The total discounted cost is estimated to be $1.2 million.

2. Revision of Air Traffic Training Courses

Manuals, textbooks, and other training materials used to educate FAA controllers will need to be updated to reflect the airspace reclassification. According to the FAA Aeronautical Center in Oklahoma City, lesson plans, visual aids, handouts, laboratory exercises, and tests will need to be revised.

The cost of these revisions is determined by multiplying the total revision time by the hourly cost of the course manager making the changes. The course managers are level GS-14 (step 5) employees with an average loaded annual salary of $72,000. Assuming 2,080 hours per year, their average loaded hourly salary is $35. The cost of the course changes is estimated to be $43,000 (discounted). An additional cost of $10,000 (discounted) will accrue as the result of a one-week seminar and associated travel. This seminar will be necessary to educate course managers about the airspace reclassification. The total cost that will accrue from this factor is estimated to be $43,000 (discounted).

3. Re-education of the Pilot Community

Pilots who are presently certificated to operate in the U.S. airspace will need to become familiar with the airspace reclassification as the result of this rule. This task will be accomplished through a variety of publications, videotapes, and pilot meetings.

The FAA is considering the production of a videotape that will be provided as a public service to industry associations, such as AOPA, ALPA, and NBAA, to inform them of the airspace reclassification. This videotape could be shown at various association meetings to help re-educate the pilot community. The FAA's Office of Public Affairs estimates that the film will be 20 to 25 minutes long and could be produced at a cost of $75,000 (discounted).

The FAA is also considering the publication of an advisory circular (AC) which will document the new airspace classifications. The AC will be mailed to each registered pilot. It is estimated that one man-week at a level GS-14 (Step 5) will be required to draft the AC and obtain approval in the sponsoring organization, and one GS-14 man-week will be required to obtain FAA approval of the AC. The cost associated with 2 man-weeks at a level GS-14 needed to prepare the AC is estimated

efficiency to the aviation community. These benefits are briefly described, in qualitative terms, below:

1. Increased Safety Due to Better Understanding and Simplification

The FAA believes that the simplified classification in this rule will reduce airspace complexity and thereby enhance safety. This airspace reclassification mirrors the new ICAO airspace designations, except there will not be a U.S. Class F airspace.

This rule also will increase safety in the U.S. since foreign pilots operating aircraft in U.S. airspace will be familiar with the airspace designations and classification system.

Another simplification which is expected to help increase airspace safety is the change that will correlate the class of controlled airspace currently termed a control zone to the airspace of the surrounding area. Currently, several types of airspace are designated around an airport, which makes it difficult for pilots and controllers to determine how the areas are classified and which requirements apply. After the reclassification, the terminology will be more explanatory.

The conversion of statute mile designations to nautical mile designations is intended to further simplify operations. Since the instruments on-board the aircraft are calibrated in nautical miles and aviation charts have representations in nautical miles, this change will eliminate the need for pilots to convert between nautical and statute miles. This simplification will help pilots and controllers to be better able to understand the airspace designations in Part 71.

2. Reduced Minimum Distance from Cloud Requirement

This airspace reclassification will designate TCAs as Class B airspace areas. The VFR minimum distance from clouds requirement in this airspace will also change. Currently this distance is 500 feet below, 1,000 feet above, and 2,000 feet horizontal. In Class B airspace, the rule will require that the minimum distance from clouds be "clear of clouds." This change will afford VFR traffic increased opportunities to fly in Class B airspace in more types of weather than they currently have in a TCA. Furthermore, there will be reduced requests for deviation from ATC instruction to maintain cloud clearance. This action will not threaten safety since all aircraft operating in Class B airspace are provided with the appropriate separation.

3. Operation Of Ultralight Vehicles

This rule incorporates NAR task group 1–7.2 recommendations and changes Part 103 to correspond to the new airspace designations found in Part 71. There will be no decrease in safety because there is not change in the type of airspace in which ultralights are permitted to fly or operate.

Conclusion

Despite the fact that benefits are *not* quantifiable in monetary terms, the FAA, nonetheless, concludes that the benefits of this rule are expected to outweigh its expected costs.

International Trade Impact Assessment

Since this rule will not affect airspace outside the United States for which the United States is responsible, it is not expected to impose any new operating requirement in that airspace. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of U. S. products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies

The amendments in this final rule will not have substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that these amendments will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

PAPERWORK REDUCTION ACT

In accordance with the Paperwork Reduction Act of 1980 (Pub L. 96-511), there are no requirements for information collection associated with this rule.

CONCLUSION

For reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation Determination and the International Trade Impact Analysis, the FAA has determined that these amendments do not qualify as a major rule under Executive Order 12291. In addition, the FAA certifies that these amendments will not have a significant economic effect on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. These amendments are considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of these amendments, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in its entirety in the regulatory docket. A copy may be obtained by contacting the person identified under *"FOR FURTHER INFORMATION CONTACT."*

CROSS REFERENCE

To identify where existing regulations for Part 75 are relocated in existing Part 71, the following cross reference lists are provided:

CROSS REFERENCE TABLE

Old Section	New Section
75.1	71.601
75.11	71.603
75.13	71.605
75.17	Deleted
75.100	71.607
75.400	71.609

New Section	Old Section
71.601	75.1
71.603	75.11
71.605	75.13
71.607	75.100
71.609	75.400

To identify where existing regulations for Part 71 are relocated in the rule to be effective September 16, 1993, or if the regulations will be relocated in FAA Order 7400.9, the following cross reference lists are provided:

71.11	Deleted
71.12	71.41
71.13	71.71
71.14	71.51
71.15	71.31
71.17	71.5
71.19	71.7
71.101	Subpart E of FAA Order 7400.9
71.103	Subpart E of FAA Order 7400.9
71.105	Subpart E of FAA Order 7400.9
71.107	Subpart E of FAA Order 7400.9
71.109	Subpart E of FAA Order 7400.9
71.121	71.79
71.123	Subpart E of FAA Order 7400.9
71.125	Subpart E of FAA Order 7400.9
71.127	Subpart E of FAA Order 7400.9
71.151	Subpart E of FAA Order 7400.9
71.161	71.71 and Subpart E of FAA Order 7400.9
71.163	71.71 and Subpart E of FAA Order 7400.9
71.165	Subpart E of FAA Order 7400.9
71.171	Subpart D or E of FAA Order 7400.9
71.181	Subpart E of FAA Order 7400.9
71.193	71.33
71.201	71.901
71.203	Subpart H of FAA Order 7400.9
71.207	Subpart H of FAA Order 7400.9
71.209	Subpart H of FAA Order 7400.9
71.211	Subpart H of FAA Order 7400.9
71.213	Subpart H of FAA Order 7400.9
71.215	Subpart H of FAA Order 7400.9
71.301	Subpart E of FAA Order 7400.9
71.401	Subpart B of FAA Order 7400.9
71.501	Subpart C of FAA Order 7400.9
71.601	Deleted
71.603	Subpart A of FAA Order 7400.9
71.605	Subpart A of FAA Order 7400.9
71.607	Subpart A of FAA Order 7400.9
71.609	Subpart A of FAA Order 7400.9

New Section	**Old Section**
71.1	71.1
71.5	71.17
71.7	71.19
71.9	New
71.31	71.15
71.33	71.193
71.41	71.12
71.51	71.14
71.61	New
71.71	71.9, 71.13, 71.161, 71.163
71.73	71.3
71.75	71.5
71.77	71.6
71.79	71.121
71.901	71.201

Subpart E	71.101
Subpart E	71.103
Subpart E	71.105
Subpart E	71.107
Subpart E	71.109
Subpart E	71.123
Subpart E	71.125
Subpart E	71.127
Subpart E	71.151
Subpart E	71.161
Subpart E	71.163
Subpart E	71.165
Subpart E	71.181
Subpart E	71.301
Subpart H	71.203
Subpart H	71.207
Subpart H	71.209
Subpart H	71.211
Subpart H	71.213
Subpart H	71.215

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends SFAR 51-1, SFAR 60, SFAR 62, Parts 1, 11, 45, 61, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 135, 137, 139, and 171 of Federal Aviation Regulations (14 CFR Parts 1, 11, 45, 61, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 135, 137, 139, and 171).

The authority for Part 11 is revised it to read as follows:

Authority: 49 U.S.C. app. 1341(a), 1343(d), 1348, 1354(a), 1401 through 1405, 1421 through 1431, 1481, 1502; 49 U.S.C. 106(g).

§ 11.1 Applicability.

This part applies to the issue, amendment, and repeal of—

(a) Rules and orders for airspace assignment and use issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and

(b) Other substantive rules, including those applicable to a class of persons, and those addressed to and served on named persons whenever the Administrator decides to use public rule-making procedures in such a case.

§ 11.11 Docket.

Official FAA records relating to rule-making actions, including: (a) Proposals, (b) notices of proposed rule making, (c) written material received in response to notices, (d) petitions for rule making and exemptions, (e) written material received in response to summaries of petitions for rule making and exemptions, (f) petitions for rehearing or reconsideration, (g) petitions for modification or revocation, (h) notices denying petitions for rule making, (i) notices granting or denying exemptions, (j) summaries required to be published under § 11.27, (k) special conditions required, as prescribed under § 21.16 or § 21.101(b)(2), (l) written material received in response to published special conditions, (m) reports of proceedings conducted under § 11.47 (n) notices denying proposals, and (o) final rules or orders are maintained in current docket form in the Office of the Chief Counsel. A public docket relating to rule-making actions taken by each Regional Administrator on petitions for exemption filed under Part 139 of this chapter is maintained in the office of the Assistant Chief Counsel for that region. Unless a request for comment indicates otherwise, a public docket relating to rule-making actions taken by Regional Administrators under Subparts D and E of this part is maintained in the office of the Assistant Chief Counsel. Federal Aviation Act of 1958 (49 U.S.C. 1504), and may obtain a photostatic or duplicate copy of it upon paying the cost of the copy.

(Amdt. 11–4, Eff. 11/2/64); (Amdt. 11–6, Eff. 1/1/67); (Amdt. 11–12, Eff. 9/20/72); (Amdt. 11–16, Eff. 3/20/79); (Amdt. 11–20, Eff. 10/14/80); (Amdt. 11–32, Eff. 10/25/89)

§ 11.13 Delegation of authority.

All agency officials, with regulatory issuance authority, may exercise the authority of the Administrator to make certifications, findings and determinations under the Regulatory Flexibility Act (Pub. L. 96–354) with regard to any rulemaking document for which issuance authority is delegated by other sections in this part.

(Amdt. 11–2, Eff. 5/29/64); (Amdt. 11–22, Eff. 8/17/81)

§ 11.15 Emergency exemptions.

If, as a result of enemy attack on the United States, communication with Washington headquarters of FAA is or may be disrupted or materially impaired, petitions for exemptions from any rule issued under Titles III or VI of the Federal Aviation Act of 1958 (air safety rules and air traffic and airspace rules) may also be filed at the nearest FAA Regional Office, air traffic control facility or office, Flight Standards District Office, Aircraft Certification Directorate, Aircraft Certification Office, International Field Office or FAA Representative in the Europe, Africa, and Middle East Region, or in the Pacific Region. The procedural requirements of §§ 11.53, 11.71, and 11.91, and the publication and comment procedures of § 11.27 need not be followed. Under these emergency conditions, the FAA inspectors or officers in charge of these offices may grant, in whole or in part and subject to reasonable conditions or limitations,

contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, the FAA issues notices of proposed rule making and allows interested persons to participate in rule-making procedings involving a substantive rule.

(c) Unless the Administrator determines that notice and rule-making procedures are to be followed, interpretive rules, general statements of policy, and rules of FAA organization, procedure, or practice are prescribed as final without notice or rule-making procedures.

(d) Whenever the Administrator so determines, the procedures prescribed in this subpart apply to exempting persons and classes from the requirements of a substantive rule.

§ 11.23 Initiating rule-making procedures.

The Administrator initiates rule-making procedures upon his own motion. However, in doing so, he considers the recommendations of other agencies of the United States and the petitions of other interested persons.

§ 11.25 Petitions for rule making or exemptions.

(a) Any interested person may petition the Administrator to issue, amend, or repeal a rule whether or not it is a substantive rule within the meaning of § 11.21, or for a temporary or permanent exemption from any rule issued by the Federal Aviation Administration under statutory authority.

(b) Each petition filed under this section must—

(1) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 120 days before the proposed effective date of the exemption;

(2) Be submitted in duplicate—

(i) To the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport, in accordance with Subpart D of this part.

(iii) To the Federal Air Surgeon (AAM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, in the case of a petition for exemption filed under Part 67 of this chapter; and

(iv) To the Rules Docket (AGC–10), Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. 20591, in all other cases.

(3) Set forth the test or substance of the rule or amendment proposed, or of the rule from which the exemption is sought, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(4) Explain the interests of the petitioner in the action requested including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of each aircraft or person to be covered by the exemption; and

(5) Contain any information, views, or arguments available to the petitioner to support the action sought, the reasons why the granting of the request would be in the public interest and, if appropriate, in the case of an exemption, the reason why the exemption would not adversely affect safety or the action to be taken by the petitioner to provide a level of safety equal to that provided by the rule from which the exemption is sought.

(c) A petition for rule making filed under this section must contain a summary, which may be published in the *Federal Register* as provided in § 11.27(b), which includes—

(1) A brief description of the general nature of the rule requested; and

(2) A brief description of the pertinent reasons presented in the petition for instituting rule-making procedures.

14, Eff. 9/6/77); (Amdt. 11–16, Eff. 3/20/79); (Amdt. 11–17, Eff. 5/27/80); (Amdt. 11–32, Eff. 10/25/89)

§ 11.27 Action on petitions for rule making or exemptions.

(a) *General.* Except for the publication and comment procedures provided for in this section, no public hearing, argument, or other formal proceeding is held directly on a petition, filed under § 11.25, before its disposition by the FAA.

(b) *Publication of summary of petition for rule making.* After receipt of a petition for rule making, except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the petition in the *Federal Register* which includes—

(1) The docket number of the petition;

(2) The name of the petitioner;

(3) A brief description of the general nature of the rule requested;

(4) A brief description of the pertinent reasons presented in the petition for instituting rule-making procedures; and

(5) In appropriate situations, a list of questions to assist the FAA in obtaining comment on the petition.

Comments on the petition for rule making must be filed, in triplicate, within 60 days after the summary is published in the *Federal Register* unless the Administrator, for good cause, finds a different time period appropriate. Timely comments received will be considered by the Administrator before taking action on the petition.

(c) *Publication of summary of petition for exemption.* After receipt of a petition for exemption, except as otherwise provided in paragraphs (i) and (j) of this section, the FAA publishes a summary of the petition in the *Federal Register* which includes—

(1) The docket number of the petition;

(2) The name of the petitioner;

(3) A citation of each rule from which relief is requested; and

a petition. If the Administrator determines, after consideration of any comments received in response to a summary of a petition for rule making, that the petition discloses adequate reasons, the FAA institutes rule-making procedures.

(e) *Grant of petition for exemption—summary.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for exemption, that the petition is in the public interest, the Administrator grants the exemption and, except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the grant of the petition for exemption in the *Federal Register.* A summary of a grant of a petition for exemption includes—

(1) The docket number of the petition;

(2) The name of the petitioner;

(3) A citation of each rule from which relief is requested;

(4) A brief description of the general nature of the relief granted; and

(5) The disposition of the petition.

(f) *Denial of petition for rule making.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for rule making, that the petition does not justify instituting rule-making procedures, the FAA notifies the petitioner to that effect. Except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the denial of the petition for rule making in the *Federal Register* in accordance with paragraph (h) of this section.

(g) *Denial of petition for exemption.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for exemption, that the petition does not justify granting the requested exemption, the FAA notifies the petitioner to that effect. Except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the denial of the petition for exemption in the *Federal Register* in accordance with paragraph (h) of this section.

(5) The disposition of the petition.

(i) *General exceptions.* The publication and comment procedures of paragraphs (b) through (h) of this section do not apply to the following:

(1) To petitions for rule makings or exemptions processed under § 11.83.

(2) To petitions for exemptions from the requirements of Part 67 of this chapter.

(j) *Exceptions to publication of summary of petition for exemption.*The publication and comment procedures of paragraph (c) of this section do not apply to the following:

(1) To petitions for emergency exemptions processed under § 11.15.

(2) To petitions for exemptions processed under Part 139 of this chapter.

(3) Whenever the head of the Office or Service concerned, subject to the approval of the Chief Counsel with respect to form and legality, finds for good cause shown in a petition for exemption that action on the petition should not be delayed by the publication and comment procedures. Factors that may be considered in determining whether good cause exists, include—

(i) Whether a grant of exemption would set a precedent or whether the petition for exemption and the reasons presented in it are identical to exemptions previously granted;

(ii) Whether the delay in acting on the petition for exemption that would result from publication would be detrimental to the petitioner; and

(iii) Whether petitioner acted in a timely manner in filing the petition for exemption.

(k) *Status of petition for rule making.* Within 120 days after publication in the *Federal Register* of a summary of petition for rule making and every 120 days thereafter, unless sooner denied under § 11.51 or issued as a notice of proposed rule making under § 11.65, the Office or Service concerned shall advise petitioner in writing of the status of the petition.

public hearing, argument, or other formal proceeding is held directly on a special condition established by the Administrator.

(b) *Procedures.* This subpart and Subpart C apply to the issue, amendment, and repeal of special conditions under Part 21. In addition to the information required by § 11.29(b), each notice will include—

(1) The name and address of the applicant;

(2) The model designation and a summary description of the affected product;

(3) The applicable type design approval regulations designated in accordance with § 21.17 or § 21.101 of Part 21; and

(4) A summary description of the novel or unusual design features that make the issue or amendment of special conditions necessary.

(Amdt. 11–20, Eff. 10/14/80)

§ 11.29 Notice of proposed rule making.

(a) Each general notice of proposed rule making is published in the *Federal Register,* unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the *Federal Register* or personally served, includes—

(1) A statement of the time, place, and nature of the proposed rule-making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted and the required number of copies; and

(5) A statement of how and to what extent interested persons may participate in the proceedings, as prescribed by §§ 11.31 and 11.33.

(c) A petition for extension of the time for comments must be submitted in duplicate not later than two days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments.

(a) Each interested person is entitled to participate in rule-making proceedings by submitting written information, views, or arguments. In addition, he may comment on the original information, views, and arguments submitted by other persons, if, after receiving them, the Administrator considers it desirable.

(b) In any appropriate case, the Administrator also allows interested persons to participate in the rule-making procedures described in § 11.33.

§ 11.33 Additional rule-making proceedings.

(a) The rule-making procedure also includes any further procedural steps that best serve the purposes of a particular proceeding. For example, interested persons may be allowed to make oral arguments, participate in conferences between the Administrator or his representative and interested persons and organizations, appear at informal hearings presided over by a designated FAA official at which a stenographic transcript is made, or participate in any other procedure whenever it is desirable and appropriate to assure informed administrative action and adequate protection of private interests.

(b) Any appropriate combination of the procedures described in paragraph (a) of this section may be used in addition to the basic procedure of allowing interested persons to participate in rule-

trator under Title III of that Act, and in any proceeding under Title VI of that Act that cannot be appealed to the National Transportation Safety Board.

(b) To indicate its intention to participate in any proceeding described in paragraph (a) of this section, the Civil Aeronautics Board may file written information, views, or arguments in response to a notice of proposed rule making issued by the Administrator. The Civil Aeronautics Board is entitled to the procedural privileges accorded other parties and is equally free to participate.

(Docket No. 8084 (32 FR 5769), Eff. 4/1/67)

§ 11.37 Requests for informal appearances.

(a) Upon his request, any interested person may appear informally before an appropriate official of the FAA to present, adjust, or determine a question or controversy relating to a rule-making function of the FAA.

(b) A request for an appearance under this section must be sent in writing to the Federal Aviation Administration, Washington, D.C. 20590, or to the Regional or District Office nearest to the person making the request.

(Docket No. 8084 (32 FR 5769), Eff. 4/1/67); (Amdt. 11–8, Eff. 4/25/67)

cedures to be followed by the Offices and Services of the FAA in rule-making proceedings and in granting or denying exemptions from rules. It also designates the Office or Service that is authorized to act for the Administrator in connection with those proceedings and exemptions. Any authority conferred by this subpart on the head of any Office or Service is also conferred on the Associate Administrator (if any) who exercises executive direction over that official.

(b) This subpart applies to rule-making procedures other than for Airworthiness Directives and rules relating to Airspace Assignment and Use.

(c) For the purposes of this subpart—

(1) The words "Office or Service" include the Technical Center, and include Regional Administrators with respect to petitions for exemptions from the requirements of Part 139 of this chapter; and

(2) "Chief Counsel" means—

(i) The Chief Counsel;

(ii) An Assistant Chief Counsel with respect to petitions for exemptions from the requirements of Part 139 of this chapter;

(iii) The Assistant Chief Counsel for Regulations and Enforcement for all other exemptions processed under this subpart; or

(iv) Any person to whom the Chief Counsel has delegated authority in the matter concerned.

(Amdt. 11–5, Eff. 8/20/66); (Amdt. 11–6, Eff. 1/1/67); (Amdt. 11–8, Eff. 4/25/67); (Amdt. 11–12, Eff. 9/20/72); (Amdt. 11–15, Eff. 11/9/78); (Amdt. 11–32, Eff. 10/25/89)

§ 11.43 Processing of petitions for rule making or exemption from parts of this chapter.

Whenever the FAA receives a petition for rule making or for an exemption, a copy of the petition

ity for the subject involved.

(Amdt. 11–13, Eff. 3/18/76)

§ 11.45 Issue of notice of proposed rule making.

Whenever he determines that a notice of proposed rule making is necessary or desirable, the head of the Office or Service concerned may, subject to the approval of the Chief Counsel with respect to form and legality, issue the notice provided for in § 11.29. In addition, he may grant or deny petitions for extension of the time for comments on the notice, filed under § 11.29(c).

(11–1, Eff. 4/23/63)

§ 11.47 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice. All timely comments are considered before final action on the rule-making proposal is taken. Late filed comments are considered so far as possible without incurring expense or delay.

(b) Whenever the head of the Office or Service concerned determines that additional rule-making proceedings of the kind described in § 11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

(Amdt. 11–5, Eff. 8/20/66)

§ 11.49 Adoption of final rules.

(a) After the Office or Service concerned has completed its analysis and evaluation of the information, views, and arguments submitted with respect to a proposed rule, representatives of that Office or Service and the Office of the Chief Coun-

head of the Office or Service concerned;

(2) Minimum en route IFR altitudes and associated flight data under Part 95 of this chapter, and standard instrument approach procedures under Part 97 of this chapter is delegated to the Manager, Technical Programs Division, Flight Standards Service; and

(3) Special conditions under Part 21 of this chapter is delegated to the Director, Aircraft Certification Service.

(Amdt. 11–15, Eff. 11/9/78); (Amdt. 11–18, Eff. 9/9/80); (Amdt. 11–19, Eff. 9/10/80); (Amdt. 11–20, Eff. 10/14/80); (Amdt. 11–20A, Eff. 12/29/80); (Amdt. 11–32, Eff. 10/25/89)

§ 11.51 Denial of petition for rule making.

Whenever it is determined that a petition for rule making filed under § 11.25 should be denied, the Office or Service concerned prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice of denial for the Administrator's signature.

(Amdt. 11–11, Eff. 3/29/71); (Amdt. 11–12, Eff. 9/20/72); (Amdt. 11–15, Eff. 11/9/78)

§ 11.53 Grant or denial of exemption.

(a) The head of the Office or Service concerned may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition for an exemption. However, if the head of the Office or Service concerned finds that the grant or denial involves a technical or policy determination that should be made by the Administrator, he refers the petition and his recommendations and those of the Chief Counsel to the Administrator for final action.

(b) Whenever a petition is granted or denied under this section, the Office or Service concerned

(a) Except as provided in paragraph (c) of this section, if a petition for exemption is denied, the petitioner may file a petition for reconsideration with the Administrator. The petition must be filed, in duplicate, within 30 days after the petitioner is notified of the denial of the exemption.

(b) If a petition for exemption is granted, a person other than the initial petitioner may file a petition for reconsideration with the Administrator. The petition must be filed, in duplicate, within 45 days after the grant of exemption is issued.

(c) If a petition for exemption from the requirements of Part 67 of this chapter is denied, the petitioner may file a petition for reconsideration with the Federal Air Surgeon. The petition must be filed in duplicate, within 30 days after the petitioner is notified of the denial of the exemption. However, if the final action on the initial petition was by the Administrator in accordance with the second sentence of § 11.53(a), the Federal Air Surgeon refers the petition for reconsideration and recommendations and those of the Chief Counsel to the Administrator for final action.

(d) A petition for reconsideration under this section must be based on the existence of one or more of the following:

(1) A finding of a material fact that is erroneous.

(2) A necessary legal conclusion that is without governing precedent or is a departure from or contrary to law, FAA rules, or precedent.

(3) An additional fact relevant to the decision that was not presented in the initial petition for exemption. In order for a petition under paragraph (a) or (c) of this section to be based on this ground, the petition for reconsideration must state the reason the additional fact was not presented in the initial petition.

(Amdt. 11–15, Eff. 11/9/78)

orders issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), including—

[(1) Designations of controlled airspace under Part 71 of this chapter;]

(2) Assignments of segments or parts of the navigable airspace for special use purposes, such as restricted areas, military climb corridors, and experimental flight test areas; and

(3) Special rules or orders relating to the assignment or use of navigable airspace.

(b) This subpart does not apply to emergency cases and cases in which the procedures described in paragraph (a) of this section are found to be impractical, unnecessary, or contrary to the public interest.

(c) For the purpose of this subpart, "Director" means the Associate Administrator for Air Traffic or the Director, Air Traffic Operations Service (or any person to whom he has delegated his authority in the matter concerned). The authority which may be delegated is limited to those matters relating to terminal airspace within the United States, as described in § 71.165 of Subpart E, and Subparts F and G of Part 71. This authority may, however, include those matters relating to Federal airways or additional control areas within the United States, as described in Subpart B, C, and I, and § 71.163 of Subpart E of Part 71, if they are ancillary to the terminal area airspace matter.

[*(c) For the purposes of this subpart, "Director" means the Executive Director of System Operations, the Associate Administrator for Air Traffic or the Director, Air Traffic Rules and Procedures Service, or any person to whom the Director has delegated authority in the matter concerned.*]*

(d) For the purposes of this subpart, "Chief Counsel" means the Chief Counsel, or an Assistant Chief Counsel for a region, or the Assistant Chief

(Amdt. 11–3, Eff. 7/13/64); (Amdt. 11–4, Eff. 11/2/64); (Amdt. 11–5, Eff. 8/20/66); (Amdt. 11–15, Eff. 11/9/78); (Amdt. 11–30, Eff. 1/17/86); (Amdt. 11–32, Eff. 10/25/89); [(Amdt. 11–35, Eff. 12/12/91 and *9/16/93)]

§ 11.63 Filing of proposals.

(a) Each proposal, except one arising in the FAA, for the designation of Federal airways or other areas for normal air traffic use, the assignment of navigable airspace for special use purposes, or the issue of a special rule or order relating to the use of navigable airspace, must be filed in writing, in triplicate, with the Director.

(b) The director may, on his own motion, initiate the procedures prescribed in this subpart for proposals arising within the FAA.

(c) A proposal requesting the assignment of navigable airspace for special use purposes, or for the designation of an area for air traffic purposes, must include at least the following:

(1) The location and a description of the airspace desired for assignment or designation.

(2) A complete description of the activity or use to be made of that airspace, including a detailed description of the type, volume, duration, time, and place of the operations to be conducted in the assigned or designated area.

(3) A description of the air navigation, air traffic control, surveillance, and communication facilities available and to be provided if the assignment or designation is made.

(4) The name and location of the agency, office, facility, or person to whom authority would be delegated to permit the use of the airspace during those times it would not be used for the purpose to which it would be assigned.

on his own motion, the Director, subject to the approval of the Chief Counsel with respect to form and legality, issues a notice of proposed rule making.

(b) Normally, a notice of proposed rule making is issued within approximately 30 days after receipt of a proposal with respect to which it has been determined that action might be taken.

(c) Each notice of proposed rule making is published in the *Federal Register* and includes at least the following:

(1) A statement of the time, place, and nature of the public rule-making proceedings.

(2) A reference to the authority under which it is proposed.

(3) Either the terms or substance of the proposed action or a description of the subjects and issues involved.

(d) Approximately 30 days are allowed for submitting written information, views, or arguments on the notice. Petitions for extension of the time for such comments are governed by the provisions of § 11.29(c). If a public hearing is to be held, either the original notice of proposed rule making or a revised notice gives approximately 30 days' notice. The Director may grant or deny petitions for extension of the time for comments on the notice and may change the date of any hearing previously noticed.

(e) Written information, views, and arguments submitted in response to a notice of proposed rule making, or that are requested after the notice, must be submitted in triplicate.

(f) Each interested person is entitled to discuss or confer informally with appropriate FAA officials concerning a proposed action. However, to become a part of the formal record for consideration, any information, views, or arguments presented during the conference must also be submitted in writing in accordance with the notice.

(Amdt. 11–1, Eff. 4/23/63)

in a case in which such a hearing is held is not based exclusively on the record of the hearing.

(b) The Director designates a presiding officer for each hearing and the Chief Counsel designates a legal adviser.

(c) Normally, hearings held under this section are held in the vicinity of the affected airspace. Interested persons are allotted time to make an oral presentation without interruption and a verbatim transcript is made of the proceedings by a certified court reporter.

(d) The procedure in hearings held under this section is as follows:

(1) The presiding officer makes an opening statement with particular reference to the notice of proposed rule making.

(2) The presiding officer designates interested persons or their authorized representatives to speak at the hearing.

(3) The presiding officer allots enough time to each interested person on an equal basis so that his position may be expressed fully and placed on the record, with those who favor it speaking first followed by those who oppose it, initial statements being made as far as possible without interruption, and questions permitted after initial statements have been made by all designated persons.

(4) Arguments and oral statements are limited to the subject named in the notice of proposed rule making.

(5) Written information, views, arguments, or briefs may be offered for the record, but may not be accepted after the hearing unless good cause is shown or the submission is requested by the presiding officer or the Director.

(e) The presiding officer of a hearing may deviate from the procedures prescribed in this section to assure a more complete and informative record.

(Amdt. 11–3, Eff. 7/13/64)

to the Director for his action.

(b) Each rule or order issued by the Director is published in the *Federal Register* and in such other publications as the Director considers desirable. Each notice of denial is sent to the person who made the proposal and to such other interested persons as the Director considers desirable.

(c) Each rule or order issued under this subpart becomes effective not less than 30 days after it is published, except in an emergency, or when it is impractical, unnecessary, or contrary to the public interest.

§ 11.71 Exemptions.

(a) A petition for an exemption from any rule or order issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) may be filed with the Director. Such a petition must be in triplicate and state clearly the nature of the requested exemption and the reasons why it should be granted.

(b) The Director may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition filed under this section and shall notify the petitioner of his action.

§ 11.73 Petitions for rehearing or reconsideration of rules or orders.

(a) Any interested person may petition the Administrator for a rehearing on, or for reconsider-

purpose, and the reason they were not presented at the hearing or in writing within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator orders otherwise, the filing of a petition under this section does not stay the effect of a rule or order.

§ 11.75 Petitions for revoking or modifying rules or orders.

(a) Any interested person may petition to revoke or modify any rule or order covered by this subpart. Such a petition must be filed, in triplicate, with the Director and must clearly state the information, views, and arguments the petitioner considers necessary to support the requested action and must clearly indicate the effect the action would have on the use of navigable airspace.

(b) A petition filed under this section is processed in the same manner as an original proposal, or in any other manner that the Director considers necessary or desirable.

(Amdt. 11–3, Eff. 7/13/64)

(a) This subpart prescribes the procedures to be followed in rule making proceedings for Airworthiness Directives issued pursuant to Part 39 and in granting or denying exemptions from Airworthiness Directives. It also designates the persons that are authorized to act for the Administrator in connection with those proceedings and exemptions.

(b) For the purposes of this subpart, "Director" means the Director, Aircraft Certification Service, or a Manager of an Aircraft Certification Directorate (Directorate Manager).

(c) The authority for issuing Airworthiness Directives is limited to the following persons:

(1) The Director, Aircraft Certification Service; and

(2) Managers of the Aircraft Certification Directorates for products under the authority of those directorates, as determined by the Administrator.

(d) For the purposes of this subpart, "Chief Counsel" means the Chief Counsel or an Assistant Chief Counsel for a region or directorate, or the Assistant Chief Counsel for Regulations and Enforcement, or any person to whom the Chief Counsel or Assistant Chief Counsel for a region has delegated his authority in the matter concerned.

(Amdt. 11–15, Eff. 11/9/78); (Amdt. 11–19, Eff. 9/10/80); (Amdt. 11–21, Eff. 12/8/80); (Amdt. 11–32, Eff. 10/25/89)

§ 11.83 Processing of petitions for rule making or exemption.

Whenever the FAA receives a petition for rule making or for an exemption, a copy of the petition is referred for action, as provided in § 11.27, to the Director having Airworthiness Directive responsibility for the product involved.

the notice provided for in § 11.29. In addition, he may grant or deny petitions for extension of the time for comments on the notice, filed under § 11.29(c).

§ 11.87 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice.

(b) Whenever the Director determines that additional rule-making proceedings of the kind described in § 11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

§ 11.89 Adoption of final rules.

In any case in which a notice of proposed rule making was issued, the Director completes his analysis and evaluation of the information, views, and arguments submitted with respect to the proposed rule and studies the entire matter. In any case in which the subject matter is, for good cause, submitted to the rule-making process without notice, the Director initiates the procedure. The Chief Counsel determines whether legal justification exists for the action proposed, and thereafter prepares an appropriate rule or notice of denial. The rule or notice of denial is then submitted to the Director for his action.

§ 11.91 Grant or denial of exemption.

(a) The Director may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition for an exemption from an Airworthiness Directive.

tion must be filed, in duplicate, within 30 days after the rule is published in the *Federal Register*.

the filing of a petition under this section does not stay the effect of a rule or order.

§ 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This subpart consolidates and displays the OMB assigned control numbers for the information collection requirements of the Federal Aviation Administration pursuant to the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) which mandates that every collection requirement have a control number displayed in the Code of Federal Regulations.

(b) *Display.*

14 CFR part or section identified and described	Current OMB control No.
Part 21	2120–0018
§ 34.7	2120–0508
Part 39	2120–0056
Part 43	2120–0020
§ 45.13	2120–0508
§§ 47.3, 47.5	2120–0029
§ 47.7	2120–0029, 2120–0042
§ 47.8	2120–0042
§ 47.9	2120–0029, 2120–0042
§§ 47.11 thru 47.47	2120–0042
§ 47.63	2120–0024
Part 49	2120–0043
§ 61.3	2120–0034
§§ 61.13 thru 61.197	2120–0021
Part 63	2120–0007
Part 65	2120–0022
§ 67.11	2120–0034, 2120–0052, 2120–0059, 2120–0069
§ 67.19	2120–0052, 2120–0059, 2120–0069
§ 67.23	2120–0002
Part 77	2120–0001
§ 91.1	2120–0026
§ 91.3	2120–0005
§ 91.18	2120–0027
§§ 91.24 thru 91.34 (except § 91.30).	2120–0005
§ 91.30	2120–0522
§ 91.39	2120–0027
§§ 91.41 thru 91.55	2120–0005
§ 91.63	2120–0027
§ 91.75	2120–0005
§ 91.83	2120–0026
§§ 91.97 thru 91.217	2120–0005
Part 91, Subpart E	2120–0082
Part 93, Subpart S	2120–0524
Part 101	2120–0027
Part 105	2120–0027
Part 107	2120–0075
Part 108	2120–0098
Part 121 (except as below)	2120–0008
§§ 121.3 thru 121.155	2120–0008, 2120–0028
§ 121.585	2120–0542
§ 121.715	2120–0523
§ 121.723	2120–0008, 2120–0025
Part 123	2120–0028
Part 125	2120–0085
Part 127	2120–0028
Part 133	2120–0044
Part 135 (except as below)	2120–0039
§§ 135.11 thru 135.17	2120–0008, 2120–0039
§ 135.43	2120–0025, 2120–0039
§ 135.129	2120–0542
§ 135.415	2120–0003, 2120–0039
Part 137	2120–0049
Part 139	2120–0063
Part 141	2120–0009
Part 143	2120–0021
Part 145 (except as below)	2120–0010
§ 145.63	2120–0003, 2120–0010
Part 147	2120–0040
Part 149	2120–0012
§§ 150.21 and 150.23	2120–0517
Part 152	2120–0065, 2120–0080
Part 157	2120–0036
§ 159.13	2120–0061
§ 159.93	2120–0084
Part 171	2120–0014
§ 183.11	2120–0002, 2120–0033, 2120–0035
§§ 183.15 thru 183.17	2120–0033
§§ 183.25 thru 183.31	2120–0035
Part 198	2120–0514

(Amdt. 11–29, Eff. 6/1/86); (Amdt. 11–31, Eff. 9/19/86); (Amdt. 11–33, Eff. 6/14/90); (Amdt. 11–34, Eff. 9/10/90)

* U.S. G.P.O.:1992-321-518:60265